



DRAFT CONSERVATION AND MITIGATION BANKING GUIDELINES

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CONSERVATION AND MITIGATION BANKING GUIDELINES

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Section 1

Program Overview

California is a biodiversity hotspot with lots of different habitat and species but it is also one of the most populace states with developmental projects. To protect species and habitats in California, there are various state and federal laws that require compensatory mitigation when impacts to California species and habitats occur (e.g., California Environmental Quality Act (CEQA), California Endangered Species (CESA), and Lake or Streambed Alteration Agreements (LSA Agreements)). Compensatory mitigation is often offsite and can be developed as an impact is being proposed or “permitted.” Or compensatory mitigation can be developed in advance of specific impacts. One mechanism for achieving compensatory mitigation in advance of impacts is the creation of a Conservation and/or Mitigation Bank (collectively called a ‘Bank’).

Both Conservation and Mitigation Banks preserve, restore, establish, or enhance habitat that are set aside for the express purpose of providing mitigation for impacts to threatened, endangered, candidate, fully protected species, and/or other special status species. Mitigation Banks also include activities authorized pursuant to Sections 404 and 401 of the federal Clean Water Act (33 U.S.C. § 1344 et seq.).

Broadly speaking, a Bank is made up of privately or publicly owned land permanently protected and managed for its natural resource values. Banks generally include large, connected areas of preserved, restored, established, or enhanced habitats that are set aside for the express purpose of providing mitigation for impacts to species and/or habitats. In exchange for permanently protecting and managing the land and resources according to a written agreement with CDFW and other agencies, the Bank Sponsor is issued Credits that it may sell to third-party project proponents who need to satisfy legal requirements for compensatory mitigation from a project's environmental impact. Alternatively, the Bank Sponsor may use the Credits for their own project mitigation needs.

A Bank is a free-market enterprise that offers property owners economic incentives to protect natural resources. Banks can save time and money for third-parties who need to mitigate for project impacts by selling mitigation Credits that satisfy their legal responsibilities rather than having the third-party mitigating and maintain the mitigation in perpetuity.

Banking in California began in the early 1990's. In 1995, the California Natural Resources Agency and the California Environmental Protection Agency established guidance on how Banks should accomplish resource management goals.

In 2011, CDFW and other state and federal agencies, including the California Natural Resources Agency, the US Fish and Wildlife Service, the National Marine Fisheries Service, the US Army Corps of Engineers, the US Environmental Protection Agency, the State Water Resources Control Board, and the US Department of Agriculture Natural Resources Conservation Service, renewed a 2006 memorandum of understanding (MOU) for developing coordinated approaches to banking in the state. The updated [2011 MOU](#) includes provisions for the development and continuous improvement of standardized banking program documents and guidance (Fish and Game Code section 1797, subdivision (c)).

In January 2013, state legislation was revised to include standards for bank proposals, timelines for CDFW review and response, and corresponding fees for cost recovery. This legislation also authorizes the promulgation of banking guidelines, which were first released in 2014, and which were revised in 2025 to incorporate new legislation, policies, and considerations CDFW identified since the Guidelines were first released.

As of 2025, Banks have permanently protected approximately 75,361 acres of lands for Covered Species, Covered Habitat, or LSA Resources.

1.1 Legislation

Senate Bill (SB) 1148 (Pavley), Ch. 565, Statutes of 2012, effective January 1, 2013 and codified as [Fish and Game Code sections 1797-1799.1](#), established a process for CDFW review and approval of mitigation and conservation bank proposals, as well as new fees for program services, administration, and oversight by CDFW. This bill reinforced the values and importance of Banks in providing for the conservation of important habitats and habitat linkages, taking advantage of a free-market enterprise, and simplifying the state regulatory compliance process while achieving conservation goals.

Additionally, SB 790 (Stern), Ch. 738, Statutes of 2021, effective January 1, 2022 and codified as [Fish and Game Code section 1955 et seq., titled "Wildlife Connectivity Actions,"](#) gave CDFW the ability to create Credits for wildlife connectivity actions through its banking program and its Regional

Conservation Investment Strategy (RCIS) Mitigation Credit Agreement (MCA) program. Credits created in accordance with SB 790 can satisfy compensatory mitigation requirements.

1.2 Purpose and Use of Guidelines

In 2014, CDFW created the first iteration of CDFW's Conservation and Mitigation Banking Guidelines (Guidelines) to implement Chapter 7.9 of Division 2 of the Fish and Game Code, beginning with section 1797.

These revised Guidelines further clarify and incorporate all relevant documents and program guidance as of the date of these Guidelines, as required by [Fish and Game Code section 1799.1, subdivision \(c\)](#). These Guidelines are available on the [CDFW Conservation and Mitigation Banking webpage](#). Future revisions will be promulgated by CDFW, in coordination with interested parties, as the program continues to develop and additional relevant documents become available.

1.3 Program Contacts

General inquiries regarding CDFW's banking program should be sent to MitBank@wildlife.ca.gov.

Specific questions regarding Bank proposals should be sent to the appropriate CDFW region (see [CDFW's Contacts for Conservation and Mitigation Banking Help](#)). During Bank proposal review, regions will assign a Regional Banking Coordinator to review a Bank proposal and work with Bank Sponsors and other signatory agencies.

1.4 Interagency Coordination

As mentioned above, in 2006, CDFW and other state and federal agencies entered into an MOU (updated and renewed in 2011) to guide the development and use of coordinated approaches to mitigation and conservation banking, such as standardized banking program documents and guidance. The agencies represented in this effort are the California Natural Resources Agency; CDFW; the US Army Corps of Engineers; the US Fish and Wildlife Service; the US Environmental Protection Agency; the US Department of Agriculture - Natural Resources Conservation Service, National Oceanic and Atmospheric Administration - National Marine Fisheries

Service; and the State Water Resources Control Board (MOU agencies).

The 2011 MOU established the Banking Agencies Management Team (BAMT), the Project Delivery Team (PDT), the Interagency Review Team (IRT), and the Conservation Banking Review Team (CBRT). The PDT develops templates, guidance documents, and procedures that are approved by the BAMT and used by all MOU agencies. The IRT and CBRT, collectively referred to in these Guidelines as the “Review Team,” reviews Bank proposals, implements established banks, and implements BAMT-approved templates, guidance documents, and procedures.

The PDT published the first joint Bank document templates in 2008. Since then, the templates and instructions have been updated periodically to reflect changing policies and new Bank implementation strategies, with input from Bank Sponsors and the Review Team. The current versions of the banking templates, including checklists, are available on [CDFW's Conservation and Mitigation Banking webpage](#), which is incorporated herein by reference.

Consistent with the 2011 MOU, except for Banks where CDFW is the only signatory agency, Bank proposals are jointly reviewed by the Review Team. The Review Team may be comprised of federal, tribal, state, and local regulatory or resource agencies with authorities and/or mandates directly affecting or affected by the establishment, operation, or use of the Bank.

When a Bank Sponsor proposes a Bank with a wildlife connectivity action, CDFW recommends early communication and review of the project either before or during the Draft Prospectus stage with all potential signatory agencies. The Bank Sponsor must include a wildlife connectivity action credit proposal for each proposed credit type, which must be evaluated and approved by CDFW and all other potential signatory agencies. Information on wildlife connectivity requirements can be found in the [Wildlife Connectivity Mitigation Guidelines](#) which is posted on [CDFW's Connectivity Advance Mitigation webpage](#) (see Section 5.3 Bank Proposals with a Wildlife Connectivity Action).

Section 2

Standard Terminology

This section identifies acronyms, terms, and definitions used within the banking program.

2.1 Acronyms

Acronym	Term
BEI	Bank Enabling Instrument
BAMT	Banking Agencies Management Team
CBEI	Conservation Bank Enabling Instrument
CBRT	Conservation Bank Review Team
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CDFW	California Department of Fish and Wildlife
ESA	Federal Endangered Species Act
IRT	Interagency Review Team
LSA Agreement	Lake or Streambed Alteration Agreement (governed by Fish and Game Code section 1600 et seq.)
LOC	Letter of Credit
MCA	Mitigation Credit Agreement
MOU	Memorandum of Understanding
MPDA	Mitigation Property Document Analysis
NCCP	Natural Community Conservation Plan (pursuant to Fish and Game Code section 2800 et seq.)
PDT	Project Delivery Team
RCIS	Regional Conservation Investment Strategy

Acronym	Term
WBC	Wildlife Conservation Board

2.2 Terms

CDFW has provided definitions for banking terms as well as terms defined in [Fish and Game Code section 1797.5](#). The terms below, as used in these Guidelines. An asterisk (*) indicates a term defined in Fish and Game Code section 1797.5.

Term	Definition
Agency Amendment	Any Amendment that is requested by CDFW or another Signatory Agency to the Bank Agreement for a CDFW-approved Bank. There is no fee associated with this Amendment type.
Amendment	Any addition, change, or modification to the Bank Agreement for a CDFW-approved Bank. There are three types of Amendments: Simple Amendments, Complex Amendments, and Agency Amendments.
Approved Bank	A Bank is approved when its Bank Agreement is signed by all parties (i.e., all Signatory Agencies, the Bank Sponsor, and the property owner). See Bank Agreement definition.
Bank*	A Conservation Bank, Mitigation Bank, or conservation and mitigation bank. ¹

¹ Fish & G. Code, § 1797.5, subd. (a).

Term	Definition
Bank Agreement	A Bank Enabling Instrument ² or written document, such as a BEI or CBEI, that governs the establishment, operation, and maintenance of a Mitigation and/or Conservation Bank that describes the respective responsibilities of the Bank Sponsor and signatory parties. Any reference to a Bank Agreement includes all exhibits to the Bank Agreement.
Bank Agreement Package	Required documents, pursuant to Fish and Game Code section 1798.5, subdivision (2) and the checklist, provided to CDFW and the Review Team to review. The checklist is posted on CDFW's Conservation and Mitigation Banking Instructions and Templates webpage .
Bank Enabling Instrument*	A written agreement with CDFW [and other Signatory Agencies (as applicable)] regarding the establishment, use, operation, and maintenance of the Bank. ³
Bank Sponsor*	The Person or entity responsible for establishing and operating a Bank. ⁴

² Fish & G. Code, § 1797.5, subd. (b).

³ Fish & G. Code, § 1797.5, subd. (b).

⁴ Fish & G. Code, § 1797.5, subd. (c).

Term	Definition
Banking Agency Management Team (BAMT)	A team composed of one representative from each 2011 MOU signatory: the US Army Corps of Engineers, the US Fish and Wildlife Service, National Marine Fisheries Service, CDFW, the US Environmental Protection Agency, the State Water Resources Control Board, the California Natural Resources Agency, and the US Department of Agriculture Natural Resources Conservation Service. The BAMT review and approve templates, guidance documents, and procedures the PDT develops.
Complex Amendment	Any amendment to a Bank Agreement that relates to the operation, management, or other material element of the Bank, including but not limited to: amending a BEI or CBEI to conform to the current BEI or CBEI template; change in Service Area configuration (excluding a Service Area reduction); and change in the number(s) or type(s) of Credits.
Compliance Security	The financial assurance required by the Bank Agreement, in an irrevocable standby letter of credit (LOC) or cash deposited into a third-party escrow account governed by an escrow agreement signed by CDFW, to be provided by the Bank Sponsor to guarantee their obligations under the Bank Agreement through Bank closure, including any remedial actions needed.

Term	Definition
Conservation Bank*	<p>A publicly or privately owned and operated site that is to be conserved and managed in accordance with a written agreement (i.e., a Bank Agreement) with CDFW [and other Signatory Agencies (as applicable)] that includes provisions for the issuance of Credits, on which important habitat, including habitat for threatened, endangered, or other special status species, exists, has been, or will be created to do any of the following:</p> <ul style="list-style-type: none"> • Compensate for take or other adverse impacts of activities authorized pursuant to the California Endangered Species Act (CESA). • Reduce adverse impacts to fish or wildlife resources from activities, authorized pursuant to Lake or Streambed Alteration Agreements (LSA Agreements). • Mitigate significant effects on the environment pursuant to the California Environmental Quality Act and Guidelines for Implementation of the California Environmental Quality Act. • Establish mitigation in advance of any impacts or effects. • To the extent feasible and practicable, protect habitat connectivity for fish and wildlife resources for purposes of this section.⁵

⁵ Fish & G. Code, § 1797.5, subd. (d).

Term	Definition
Conservation Bank Review Team (CBRT)	A team comprised of at least one representative from each Signatory Agency to a Conservation Bank's Bank Agreement. CBRTs review proposed conservation bank proposals and oversee compliance and the Bank Sponsor's implementation of an approved Conservation Bank.
Conservation Easement (CE)*	A perpetual conservation easement, as defined by Section 815.1 of the Civil Code , covering the real property that comprises the Bank site. ⁶
Construction Security	The financial assurance required by the Bank Agreement, in an irrevocable standby LOC or cash deposited into a third-party escrow account governed by an escrow agreement signed by CDFW, to be provided by the Bank Sponsor to guarantee the completion of construction, planting, and other Bank development activities intended to establish, restore, or enhance Covered Habitat or LSA Resources in accordance with the Development and Interim Management Plan.
Covered Habitat	Habitat of concern or habitat upon which the Covered Species depend for their continued viability that CDFW and the Review Team (as appropriate) determines will be adequately conserved as a result of implementation of the Bank Agreement.
Covered Species	Species for which the Bank has been established and for which Credits have been allocated.

⁶ Fish & G. Code, § 1797.5, subd. (e).

Term	Definition
Credits	Units of measure representing the accrual, attainment, or protection of aquatic functions and/or the Covered Species, Covered Habitat, or LSA Resources on the Bank property.
Credit Release	An action by the agency with authority to make specified Credits available for Sale and/or Transfer pursuant to the Bank Agreement.
Development and Interim Management Plan	A plan governing construction and habitat establishment, restoration and enhancement activities, Performance Standards, and Interim Management required to be conducted on the Bank Property to establish Credits.
Draft Prospectus	A brief proposal submitted when scoping the concept of a bank, contemplating pursuing a bank idea, or for those new to the banking process. ⁷
Endowment Agreement	A written agreement, between the Bank Sponsor and Endowment Holder, pursuant to California Government Code § 65965(f)(1), which establishes the terms and conditions pursuant to which the Endowment Holder will accept custody of and manage the Endowment Fund.
Endowment Holder	An entity qualified to hold the Endowment Fund pursuant to Government Code §§ 65965-65968 and is otherwise approved by CDFW and the Review Team (as applicable).

⁷ Fish & G. Code, § 1798, subd. (a)(1).

Term	Definition
Endowment Fund	A financial account, held in trust for the benefit of the long-term stewardship of the Bank property. The Endowment Fund is intended to be maintained and managed in perpetuity in accordance with Government Code §§ 65965-69568, Probate Code §§18501-18510, the Bank Agreement, and the Endowment Agreement. The Endowment Fund is intended to be invested in accordance with an investment policy statement that is designed to generate earnings and appreciation in value over the long term. The Endowment Fund is to be used in funding perpetual management, maintenance, monitoring, and reporting pursuant to the Long-term Management Plan. Note, the endowment funding required by the Grantee to hold and monitor the CE must be addressed by the Bank Sponsor in a separate and distinct Endowment Agreement.
Established Bank	When the Bank has met the bank establishment date criteria required in the Bank Agreement then the Bank may begin selling and/or transferring credits.
Grantee	The entity authorized to hold the CE pursuant to California Civil Code §815.3 and Government Code §§ 65966 and 65967 and is otherwise approved by CDFW and the Review Team (as applicable).
Implementation Fee	Fish and Game Code section 1799, subdivision (e)(2) requires CDFW to collect a fee to pay for all or a portion of the banking program costs.

Term	Definition
Interagency Review Team (IRT)	A team t comprised of at least one representative from each Signatory Agency to a Mitigation Bank's Bank Enabling Instrument. IRTs review proposed Mitigation Banks and oversee compliance and the Bank Sponsor's implementation of an approved Mitigation Bank.
Interim Management Security	The financial assurance required by the Bank Agreement, in an irrevocable standby LOC or cash deposited into a third-party escrow account governed by an escrow agreement signed by CDFW, to be provided by the Bank Sponsor to guarantee interim management is completed in accordance with the Development and interim Management Plan.
Long-term Management Plan (LTMP)	A plan that provides measures intended to ensure the Bank property is managed, monitored, and maintained in perpetuity to conserve and protect its Waters of the U.S., Waters of the State, Covered Species, Covered Habitat, and LSA Resource, as applicable. The LTMP is reviewed as part of the Bank Agreement Package and approved by the Signatory Agencies.
LSA Resources	Fish and wildlife resources for which the Bank has been established and Credits have been allocated to provide compensatory mitigation for impacts pursuant to Fish and Game Code § 1600 et seq.

<p>Mitigation Bank*</p>	<p>Either of the following:</p> <ul style="list-style-type: none"> • A publicly or privately owned and operated site on which wetlands have been or will be created in accordance with this chapter to compensate for adverse impacts caused by removal or fill permit activities authorized pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). "Bank site" or "Mitigation Bank site" may include land on which rice is grown as long as those lands are managed as ricelands and those lands meet the other requirements of Section 1784. • Any publicly or privately owned and operated site, other than those defined above, on which wetlands exist, have been, or will be created, and that is to be conserved and managed in accordance with a written agreement (e.g., Bank Agreement) with CDFW for any of these purposes: <ul style="list-style-type: none"> ○ Compensate for take or other adverse impacts of activities authorized pursuant to the California Endangered Species Act (CESA). ○ Reduce adverse impacts to fish or wildlife resources from activities, authorized pursuant to Lake or Streambed Alteration Agreements (LSA Agreements). ○ Mitigate significant effects on the environment pursuant to the California Environmental
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Term	Definition
	<p>Quality Act and Guidelines for Implementation of the California Environmental Quality Act.</p> <ul style="list-style-type: none"> ○ Establish mitigation in advance of any impacts or effects.⁸
Performance Security	<p>The financial assurance required by the Bank Agreement, in an irrevocable standby LOC or cash deposited into a third-party escrow account governed by an escrow agreement signed by CDFW, to be provided by the Bank Sponsor to guarantee the Bank Sponsor's obligations to meet all final Performance Standards are met for all Credit types per the Bank Agreement.</p>
Performance Standard	<p>Minimum standards set forth in the Bank Agreement to define the successful development of Waters of the U.S., Waters of the State, Covered Habitat, Covered Species Credits, and LSA Resources, as applicable.</p>
Person*	<p>Any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.⁹</p>

⁸ Fish & G. Code, § 1797.5, subd. (f).

⁹ Fish & G. Code, §§ 1797.5, subd. (g) & 711.2, subd. (b).

Term	Definition
Phase 1 Environmental Site Assessment	An assessment of the environmental condition of the Property performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-013 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," or any successor to such ASTM Standard which is active at the time of the assessment.
Property Assessment and Warranty	The written property evaluation and assurance signed by the Property Owner.
Project Delivery Team (PDT)	A team comprised of staff from the Signatory Agencies to the 2011 MOU that develops and updates banking templates, guidance documents, and procedures.
Prospectus*	A written summary of a proposed Bank containing a sufficient level of detail to support informed review and comment by CDFW. ¹⁰
Prospectus Acceptability	A sufficient level of detail about the proposed Bank was provided for CDFW to review and comment to deem acceptable.
Sale	The Sale of Credits by the Bank Sponsor. A Sale without a Transfer does not confer legal responsibility for providing compensatory mitigation to the Bank Sponsor.

¹⁰ Fish & G. Code, § 1797.5, subd. (h).

Term	Definition
Service Area	The geographic area(s) within which impacts to Waters of the U.S., Waters of the State, Covered Species, Covered Habitat, or LSA Resources, as applicable, that occur may be mitigated or compensated at the Bank.
Signatory Agencies or Signatory Agency	An agency that is, or agencies that are, signatory to a Bank Agreement.
Simple Amendment	Any amendment to a Bank Agreement and/or Bank Agreement exhibit that relates to the organization or administration of the Bank including, but not limited to, Bank Sponsor, property owner, Endowment Holder, reduction in a Bank's Service Area, "a change in Bank name, ownership change, address change, or proposed decrease in the number of Credits proposed. ¹¹ "
Subordination Agreement	A written, recorded agreement in which the holder of an interest in, or lien or encumbrance on the Bank Property makes the lien or encumbrance subject to and of lower priority than the CE, even though the lien or encumbrance was recorded before the CE.
Transfer	The use or application of Credits to mitigate for a particular project's impacts.
Unsolicited Change	Changes requested by the Bank Sponsor or property owner during Bank Agreement Package or Amendment Package acceptability review. Unsolicited Changes do not include changes requested by CDFW ¹² or the Review Team.

¹¹ Fish & G. Code § 1798.6, subd. (c)(1).

¹² Fish & G. Code, §§ 1798.5, subd. (f) & 1798.6, subd. (f).

Section 3

Compensatory Mitigation

Through the banking program, CDFW may authorize the creation of Credits to offset certain impacts through mitigation under CEQA, CESA, and LSA Agreements.¹³

3.1 California Environmental Quality Act

Pursuant to Fish and Game Code section 1797.5, subdivisions (d)(3) and (f)(2), Bank Credits may be used to mitigate significant effects on the environment for purposes of CEQA.

Bank Sponsors that are considering developing a Bank to offset CEQA impacts should consult with the appropriate local government agencies (e.g., counties, cities) to evaluate the need for Credits and the likelihood that future project proponents could use the Bank to satisfy mitigation obligations under CEQA. In addition, local government agencies could be invited to become signatory to the Bank Agreement to ensure that the Bank will offset CEQA impacts for the local agency.

Though CDFW approval of CEQA credits is not required, CDFW encourages Banks to seek CDFW approval of proposed CEQA credits, as CEQA lead agencies often rely on CDFW as a responsible or trustee agency to review and approve mitigation for impacts to biological resources.

3.2 California Endangered Species Act

CDFW can authorize the issuance of Covered Species and Covered Habitat Credits to mitigate for authorized take of endangered, threatened, rare plants listed under the Native Plant Protection Act, fully protected species pursuant to Fish and Game Code section 2081.15, or candidate species under CESA, as well as for impacts of the take.¹⁴

¹³ Fish & G. Code §, 1797.5, subds. (d)(1)-(3) & (f)(2).

¹⁴ Fish & G. Code, § 1797.5 subds. (d)(1) & (f)(2); Fish & G. Code, § 2081, subd. (b)(2).

3.3 LSA Agreements

CDFW can approve Credits that will offset adverse impacts to fish or wildlife resources from activities authorized under LSA Agreements.¹⁵

3.4 Credit Categories

There are four categories of Credit types, which are based on the type of action used to develop the habitat. The Credit categories are:

- **Preservation or Preserve** - These Credits are established for the protection of existing ecologically important wildlife, habitat, or other ecosystem resources in perpetuity.
- **Restoration or Restore** - These Credits are established for the manipulation of physical, chemical, or biological characteristics of a site with the goal of returning degraded habitat to its natural/historic functions.
- **Establishment or Establish** - These Credits are established for the manipulation of physical, chemical, or biological characteristics to create or develop an aquatic or terrestrial resource that did not previously exist.
- **Enhancement or Enhance** - These Credits are established for the manipulation of the physical, chemical, or biological characteristics of an aquatic or terrestrial resource to heighten, intensify, or improve a specific function.

¹⁵ Fish & G. Code, § 1797.5, subd. (d)(2); Fish & G. Code, § 1600 et seq.

Considerations for Developing a Bank Proposal

When determining whether a property is eligible for Bank development, this section provides considerations to aid Bank Sponsors when identifying an eligible Bank property.

4.1 Bank Property Characteristics

Bank Sponsors should carefully select Bank properties to ensure they provide conservation value for threatened, endangered, candidate, fully protected species, rare plants listed under the Native Plant Protection Act, other special status species, and/or habitats for which Credits are sought. Bank Sponsors should select prospective Bank properties that contain significant high value resources, contribute to regional conservation strategies, are of ecologically sustainable size, and that are near other conserved lands.

Banks that meet these criteria are most likely to yield maximum conservation value and sustainable mitigation for sensitive species and/or habitats.

CDFW encourages Bank Sponsors to select properties that offer the following characteristics:

- Fish and wildlife presence, use, and diversity, if species Credits are being proposed.
- Endangered, threatened, candidate, fully protected species, rare plants listed under the Native Plant Protection Act, or declining species or habitats.
 - Site and resource viability (including the long-term ability to retain or enhance resources of interest, considering unit size and long-term outlook for adjacent and upstream lands).
 - Contribution to wildlife and habitat connectivity and corridors.
 - Relationship of area to existing or planned conservation efforts.

Bank Sponsors should consider the following when selecting a Bank property:

- Development needs.

- A site that when developed property will result in high quality habitat.
- A list of Performance Standards for the site that will result in high quality habitat.
- Type, size, and condition of existing physical improvements, such as buildings, roads, and levees, including whether they contribute to or harm the conservation values of the Bank, as well as any associated management and maintenance needs.
- A site where the development needs can be legally authorized and permitted, such as meeting Fish and Game Code section 2081.15.
- Climate change.
 - The property's potential to help facilitate adaptation to climate change and the inclusion of adaptive management to address these changes. Examples of how lands might facilitate adaptation to climate change include the establishment or improvement of corridors, reliable water sources, and topography that allows upward migration of plants and animals.
 - Potential climate change impacts that may diminish key wildlife habitat values to the proposed Bank property. Climate change threats to current resource values may include drying of wetlands, changes in habitat type, and loss of coastal marshes due to sea level rise.
- Other attributes.
 - Property has been identified in a recovery plan, NCCP, RCIS and/or another conservation planning document.
 - Whether the property contains or has a potential presence of contaminants.
 - Other threats to maintaining high quality habitat, such as suburbanization; off-highway vehicle use; trespass issues; or conversion to agriculture, more intensive agriculture, or change in crop types.

- Management objectives and needs.
 - Short-term and long-term management challenges and opportunities.
 - Surveys and monitoring needs.
 - Ongoing habitat/wildlife management requirements.
 - Land encumbrances and rights that will affect management of the property.

The following types of lands are generally not appropriate for Bank locations:

- Land that has already been, or is being, used for mitigation.
- CDFW-owned land (e.g., Ecological Reserves, Wildlife Areas) or already conserved land.
- Land inconsistent with habitat preservation (e.g., lands designated or dedicated for parks, recreation, or open space use).
- Land that has recorded or unrecorded interests that allow, or have allowed, uses that are incompatible or inconsistent with the conservation values of the proposed Bank (e.g., lands used or set aside for roads, railroads, landfills, or munitions testing).

4.1.1 Resources for Bank Property Selection

CDFW has prepared many strategic conservation initiatives, independently and in cooperation with others, to identify habitat areas and linkages in California that are essential for conservation of sensitive resources.

These resources, which can help to inform the selection of Bank location are listed below:

- [California State Wildlife Action Plan](#): The State Wildlife Action Plan examines the status of wildlife and prescribes actions to conserve wildlife and vital habitat before they become rarer and more costly to protect. This plan identifies potential conservation projects and actions to secure sensitive habitats and habitat linkages.
- [CDFW Connectivity Data Sets](#): CDFW has compiled various data sets to provide an understanding of how habitats are connected, the

corridors that animals use to move through the landscape, and the locations of barriers that impede movement.

- **[CDFW Lands Viewer](#)**: The Lands Viewer provides geospatial data about CDFW lands and facilities, including more than 1 million acres of Ecological Reserves and Wildlife Areas. Additional information for some of these lands may be found at the [CDFW lands program web page](#).
- **[CDFW Natural Community Conservation Planning \(NCCP\)](#)**: The NCCP Program promotes collaborative planning efforts designed to provide long-term, regional-scale permits resulting in the conservation of plants, animals, and their habitats, while allowing for compatible and appropriate economic activity. See Section 4.3, Natural Community Conservation Plans (NCCP).
- **[CDFW Recovery Plans for Threatened and Endangered Species](#)**: CDFW has the authority to develop non-regulatory recovery plans for species listed under CESA.¹⁶ Recovery plans provide practical frameworks for the recovery of CESA-listed plants and animals based on the best available scientific information.
- **[CDFW Regional Conservation Investment Strategies \(RCIS\) Program](#)**: CDFW's RCIS Program encourages a voluntary, non-regulatory regional planning process intended to result in high quality conservation outcomes through Regional Conservation Investment Strategies and Mitigation Credit Agreements (see Section 4.4, Regional Conservation Investment Strategy (RCIS) Program Mitigation Credit Agreements (MCAs)).
- **[Biogeographic Information and Observation System \(BIOS\)](#)**: BIOS is designed to enable the management, visualization, and analysis of biogeographic data collected by CDFW and its partner organizations.

Information from other sources:

- **[Atlas of the Biodiversity of California \(Atlas\)](#)**: The Atlas is a guide to California's biodiversity, the variety of plants and animals found throughout the state. This published book is a collection of maps, photographs, artistic illustrations, and short essays about the state's biological resources, pressures affecting them, and activities to sustain them. Although the Atlas is a worthwhile information source, the data

¹⁶ Fish & G. Code, § 2079.1.

available through ACE (described below) are more current.

- **California Areas of Conservation Emphasis (ACE)**: This mapping model compiles and analyzes spatial information on California species' diversity, rarity, and sensitive habitats. ACE provides a summary of biological richness and biodiversity "hot spot" analysis and is a tool for conservation decision making.
- **California Gap Analysis Project**: The California Gap Analysis Project evaluates the conservation status of plant communities, vertebrate species, and other species on existing biological reserves and identifies landscapes that contain large numbers of potentially unprotected vegetation types and vertebrate species. Such areas can then be studied in more detail as candidates for additional management and conservation efforts to fill gaps in the reserve network.
- **California Protected Areas Database (CPAD)**: CPAD is a Geographic Information System (GIS) dataset depicting lands that are owned in fee and protected by public agencies open space purposes by public agencies or non-profit organizations in California. It includes open space lands ranging from small neighborhood parks to large wilderness areas. CPAD also includes CE data.
- **EcoAtlas Wetland and Aquatic Resources**: EcoAtlas provides detailed of aquatic resources in California, including stream and wetland maps, restoration information, and monitoring results with land use, transportation, and other information important to the state's wetlands.
- **Federally Listed Endangered Species Recovery Plans** (the US Fish and Wildlife Service): The US Fish and Wildlife Service creates recovery plans for species that are federally listed as threatened or endangered. These plans include significant information about the steps needed to achieve recovery and identify critical habitat essential for recovery. They are available on the USFWS website.
- **Science and Collaboration for Connected Wildlands Regional Connectivity Analyses**: The Science and Collaboration for Connected Wildlands Regional Connectivity Analyses is an extension of the California Essential Habitat Connectivity Project, which identifies large remaining blocks of intact habitat and modeled linkages between them that need to be maintained, particularly for wildlife corridors. The Science and Collaboration for Connected Wildlands Regional Connectivity Analysis provides local and regional connectivity analyses

at a finer scale than the California Essential Habitat Connectivity Project. These analyses may be helpful for Bank Sponsors looking to create Banks in the San Francisco Bay area, California desert, south coast, or Carrizo Plain.

4.1.2 Multiple Properties or Parcels

The properties comprising a proposed Bank must be contiguous parcels with shared boundaries extending beyond a single point or a corner. CDFW will not consider proposed Banks containing non-contiguous parcels as one Bank proposal. Bank properties with non-contiguous parcels must be submitted by the Bank Sponsor as one or more bank proposals, depending on whether the parcels are contiguous. However, if other Signatory Agencies are reviewing a Bank proposal, CDFW will discuss with those Signatory Agencies and determine on a case-by-case basis whether such non-contiguous parcels should be processed as one proposed Bank or multiple Bank proposals.

If there is a linear feature (e.g., road, railroad) causing proposed Bank parcels to be non-contiguous, CDFW will determine on a case-by-case basis whether the parcels should be submitted under one or more Bank proposals. CDFW recommends Bank Sponsors contact CDFW's Regional Bank Coordinator to determine how many Bank proposals should be submitted.

Where a Bank is comprised of multiple parcels, , all property owners must be signatory to the proposed Bank Agreement.

4.2 Service Area Characteristics

Each Credit type should have a distinct ecologically based Service Area. The following information provides general suggestions when selecting and justifying Service Area boundaries:

- Service Areas should be ecologically based and appropriately sized based on the habitat or species. This may mean restricting Service Areas to watersheds for LSA Resources or sizing a Service Area based on the distribution of the existing population of a species.
- Map boundaries should be drawn along existing, clearly discernable lines whenever possible.
- Service Area boundaries should be developed to help achieve perpetual conservation and recovery goals. It is essential to think about

both the Bank location and the areas where proposed Credits are needed.

CDFW will review the proposed Service Area during the bank agreement package stage and the approved Service Area map will be included in the approved Bank Agreement. There may be instances in the lifetime of the Bank that CDFW may approve out-of-service area Credit Sales, or there may be reasons to deny the Transfer of Credits to compensate for impacts to biological resources that is located within the Service Area.

4.3 Natural Community Conservation Plans (NCCP)

A CDFW-approved NCCP results in a permit issued by CDFW that authorizes the take of CESA-listed species, California fully protected species, and sensitive or regionally important species, while also outlining and requiring mitigation and conservation of the species and habitat within the plan. An NCCP identifies an area for regional protection (referred to as the “reserve system”) that serves as mitigation and provides additional conservation and protection of plants, wildlife, and their habitats. This protection offsets project impacts to CESA-listed species and/or California fully protected species.

Banks may be incorporated into approved NCCPs or developed within an NCCP’s reserve system, however, Bank Sponsors should review any NCCP that covers the proposed Bank property or its Service Area, as banks within a NCCP may be required to undertake activities required by the NCCP. Banks may be precluded from selling Credits to projects covered under an NCCP, thus reducing the demand for and market value of the Credits (see [NCCP Maps](#)). For example, if the bank is outside of the NCCP’s plan area or reserve, the NCCP may not allow the purchase of those credits to satisfy mitigation requirements.

If a proposed Bank is within an NCCP area, CDFW recommends that the Bank Sponsor work with the NCCP implementing entity to assess the value of the Bank and whether the Bank may be incorporated into the NCCP (see [NCCP Plan Summaries](#)).

The following suggestions may help Bank Sponsors integrate Banks into approved NCCPs and NCCPs in the planning process:

Actions that can be done during NCCP development:

- Participate in NCCP development through the public participation process to promote banking interests and to propose ways to integrate Banks into the NCCP.
- Help NCCP implementing entities evaluate costs of acquiring, protecting, and managing mitigation land to improve plan funding estimates.
- NCCPs include an impact analysis and conservation analysis for the covered species and habitats, which could help Bank Sponsors in assessing credit needs and potential bank locations in an NCCP area.

Actions that can be done during NCCP implementation:

- Invite NCCP implementing entities to become Bank Agreement signatories to increase the potential that the implementing entities' may use the Bank.
- Review approved NCCPs to identify where potential Bank sites could be located to assure there is high demand for Credits.
- Work with NCCP implementing entities to assess lands under their jurisdiction that might be suitable for Bank Establishment. The Bank Sponsor could provide services to establish a Bank and could be the contractor to provide ongoing monitoring and management.
- If Banks are incorporated into a NCCP's conservation actions, Credits may be used by NCCP implementing entities and plan participants. The Bank Sponsor may enter into long-term contracts (multiple years) with NCCP implementing entities to reserve Credits at a fixed price.

4.4 Regional Conservation Investment Strategy (RCIS) Program Mitigation Credit Agreements (MCAs)

Nothing in the Guidelines is intended to alter, limit, or impose additional conditions on the creation, Sale, or Transfer/use of Credits under an MCA. Like Banks, Credits that are viable sources of compensatory mitigation for project(s) within an MCA's service area are issued under established MCAs. CDFW recommends reviewing the MCAs nearby with overlapping service

areas and Credits when considering developing a Bank.

Section 5

Bank Proposal

If a Bank Sponsor is interested in establishing a Bank with CDFW, the Bank Sponsor must follow the steps set forth in Fish and Game Code sections 1797-1799.1 and reiterated in this section.

5.1 Fees

Fish and Game Code sections 1798, 1798.5, 1798.6, and 1799 authorize CDFW to collect fees to fund CDFW's Bank review processes, implementation and compliance costs. The applicable fees must be paid in full for each component that requires a fee (e.g., Prospectus) and confirmation of payment must be received by the appropriate CDFW Regional Banking Coordinator prior to the start of CDFW's review. The current fee schedule is posted on [CDFW's Conservation and Mitigation Banking Review Fees webpage](#), which is incorporated herein by reference. Processing of Bank proposals may carry over from one year to the next. The fee for each component will be charged according to the fee schedule that is in place at the time the component is received by CDFW.

CDFW adjusts these fees at the end of each calendar year.¹⁷ CDFW notifies the public of fee adjustments and posts updated fees on CDFW's Conservation and Mitigation Banking Review Fees webpage.

It is important to note that in addition to fees, each Bank Sponsor is required to provide financial assurances, as specified in the Bank Agreement, as well as Endowment Funds for long-term management of the Bank property (see Section 7.2, Financial Assurances and 7.3, Endowments).

5.1.1 Implementation Fee

Fish and Game Code section 1799, subdivision (e)(1) directs CDFW to collect fees to pay for all or a portion of CDFW's Bank implementation and compliance costs. The Implementation Fee will be assessed at the time the Bank Agreement is approved based on the fee schedule in place at the time. The implementation can be paid in installments associated with each

¹⁷ Fish & G. Code, §1799.1, subd. (a).

Credit Release and will not reflect any increase in the Implementation Fee that may occur after the Bank Agreement is approved.

Each Implementation Fee installment payment, as a percentage of the total fee, shall be in an amount that equals the ratio of the number of Credits Released to the total number of Credits in the Bank, as identified in the Bank Agreement.¹⁸ Payments shall be due following each Credit Release, no later than the due date for the submission of the Bank's annual report. CDFW shall assess a penalty of 10 percent of the amount due against late payments.¹⁹ CDFW may also prohibit the Bank from selling Credits and may prohibit Credit Releases until all fees due are paid in full.

5.1.1.1 Fees for Banks Approved prior to January 1, 2013

When changes to the Bank Agreement are proposed by the Bank Sponsor or the Bank's property owner, for Banks approved prior to January 1, 2013, the Bank Sponsor or the Bank's property owner must submit a Bank Amendment Package with the current Bank Amendment Package fee.

If a Bank was approved prior to January 1, 2013, and did not pay an Implementation Fee, a current Implementation Fee will be required when the Bank Sponsor or the Bank's property owner, proposes a Complex Amendment (see Section 2.2, Terms for the definition of Complex Amendment) because implementing and monitoring compliance of Complex Amendments requires additional CDFW staff time.

If a Bank was approved prior to January 1, 2013, and did not pay an Implementation Fee, a current Implementation Fee will not be required when a Bank Sponsor or Bank's property owner proposes a Simple Amendment (see Section 2.2, Terms for the definition of Simple Amendment) because implementing and monitoring compliance of Simple Amendments requires little to no additional CDFW staff time.

5.2 Proposal Review Timelines

Fish and Game Code sections 1798, 1798.5, and 1798.6 establish timelines for CDFW's review of various Bank proposal components. To assist Bank Sponsors, CDFW created the Review Process Flowchart for Bank Prospectuses and Bank

¹⁸ Fish & G. Code, §1799, subd. (e)(2).

¹⁹ *Ibid.*

Agreement Packages (Appendix A) and Process Flowchart for Bank Amendment Packages (Appendix B), which is a graphical representation of the Bank proposal and Amendment process. In addition, CDFW created a Basic Outline of Fees and Review Steps for Bank Prospectuses and Bank Agreement Packages (Appendix C) and Basic outline of Fees and Review Steps for Bank Amendments (Appendix D), which is a step-by-step description of the Bank proposal and Amendment process. The review periods are summarized in Table 1 below.

When fees are required, they must be paid in full, along with the Bank proposal component, and confirmation of payment must be received by the appropriate CDFW Regional Banking Coordinator prior to the start of the Bank proposal component review timeline. It is important to note that changes to a banking template may delay the review process.

Table 1. Summary of CDFW's Bank proposal review timelines.

Bank Proposal Component	Action/Decision	Review Timeline
Draft Prospectus (optional)	Initial evaluation	30 days
Prospectus	Completeness determination	30 days
Prospectus	Acceptability determination	90 days
Bank Agreement Package	Completeness determination	30 days
Bank Agreement Package	Acceptability determination	90 days
Bank Agreement Package (Acceptable review period)	CDFW Requests Supplemental Information²⁰	+90 days
Bank Agreement Package (Acceptable review period)	Bank Sponsor Requests Unsolicited Change	+90 days
Bank Agreement Package (Acceptable review period)	CDFW Issued Extension²¹	+60 days
Bank Amendment Package	Completeness determination	30 days
Bank Amendment Package	Acceptability determination	90 days
Bank Amendment Package (Acceptable review period)	CDFW Requests Supplemental Information²²	+90 days
Bank Amendment Package (Acceptable review period)	Bank Sponsor Requests Unsolicited Change	+90 days
Bank Amendment Package (Acceptable review period)	CDFW Issued Extension²³	+60 days

²⁰ See Section 5.4.4.4, Supplemental Information Requested by CDFW.

²¹ Fish & G. Code, § 1798, subd. (b)(2).

²² See Section 5.4.7.4, Supplemental Information Requested by CDFW.

²³ Fish & G. Code, § 1998.5, subd. (b)(2).

5.2.1 CDFW-Issued Extensions During Bank Agreement Package and Bank Amendment Package Review

During the Bank Agreement Package and Bank Amendment Package stage, if CDFW determines that 90 days is insufficient to complete its review of the Bank Agreement Package or Bank Amendment Package, CDFW may extend the 90-day period for reviewing the bank agreement or amendment package by an additional 60 calendar days.²⁴ CDFW may extend the review period for reasons including, but not limited to:

- Bank size;
- Bank location;
- Bank complexity;
- Inclusion of a development or construction plan;
- Complexity of the Bank Agreement Package;
- Substantial variations from recommended standard forms;²⁵ and
- Development of unexpected issues.

5.2.2 Clarifying Information Requests

CDFW may request clarifying information at any time during its review of the Prospectus, Bank Agreement Package, or Bank Amendment Package. Unlike requests for supplemental information, requests for clarifying information does not stop or extend CDFW's review timelines (see Section 5.4.4.4, Supplemental Information Requested by CDFW and Section 5.2, Proposal Review Timelines). Therefore, CDFW requests that Bank Sponsors reply promptly to any clarifying information requests to help CDFW meet timelines to the greatest extent feasible.

5.2.3 Mutually Agreeable Pause

A mutually agreeable pause is a voluntary agreement between CDFW and the Bank Sponsor or a party, signatory to the Approved Bank, to pause the

²⁴ Fish & G. Code, §§ 1798.5, subd. (g) & 198.5, subd. (b)(2).

²⁵ *Ibid.*

banking program's timelines. A mutually agreeable pause allows parties to resolve issues, align agencies' responses, and potentially avoid an unacceptable determination by CDFW that would require the Bank Sponsor or party to resubmit the document and pay additional fees if further consideration is desired. CDFW, the Bank Sponsor, or a party, signatory to the Approved Bank, may request a mutually agreeable pause at the Prospectus, Bank Agreement Package, or Bank Amendment Package stage. Under a mutually agreeable pause, CDFW's review timeline is suspended until a specific date that is mutually agreed upon in writing by CDFW and the Bank Sponsor or party, signatory to the Approved Bank.

The length of a mutually agreeable pause will be determined on a case-by-case basis.

Situations where mutually agreeable pause may be appropriate include, but are not limited to, the following:

- An MOU agency other than CDFW needs more time to complete its review than is set forth in the Fish and Game Code for CDFW's review;
- The MOU agencies, including CDFW, need additional time to align their comments on an outstanding issue before responding to the Bank Sponsor or party, signatory to the Approved Bank;
- An unexpected issue develops during the Bank review process;
- Biological surveys or technical analysis need to be conducted; or
- A major issue arises after CDFW completes its review of the banking document(s) and/or conducts a site visit.

CDFW also encourages any Bank Sponsor or party, signatory to the approved Bank Agreement, to request and receive a mutually agreeable pause date if they are unable to fully respond to a request from CDFW for supplemental information within 60 days of the request. Pursuant to Fish and Game Code sections 1798.5, subdivision (e) and 1798.6, subdivision (e), if a Bank Sponsor does not provide CDFW with the requested supplemental information within 60 days, CDFW will deem the Bank Agreement Package or Bank Amendment Package unacceptable (see Sections 5.4.4.4, Supplemental Information Requested by CDFW and 5.4.7.4, Supplemental Information Requested by CDFW).

5.3 Bank Proposals with a Wildlife Connectivity Action

Bank Sponsors can propose Banks with wildlife connectivity actions. A wildlife connectivity action is an action that measurably improves aquatic or terrestrial habitat connectivity or wildlife migration, recolonization, and/or breeding opportunities inhibited by built infrastructure or habitat fragmentation. A wildlife connectivity action may include, but is not limited to, a road overpass or underpass solely for use by wildlife.²⁶

A few examples of wildlife connectivity actions are:

- Restoring chinook salmon migration to upstream waters by replacing a culvert under a county road with a full-span bridge, to ensure the location is passable by all life stages of chinook salmon, even during low flow and flood events.
- Restoring the linkage between upland breeding habitat and ponds population by installing an elevated roadway with openings and directional fencing to allow populations of California tiger salamander to more safely access necessary habitat.
- Building an overpass across a state freeway with directional fencing to allow movement of species such as desert bighorn sheep, Mohave ground squirrel, and desert kit fox into protected habitat.

When a Bank Sponsor proposes a Bank with a wildlife connectivity action, CDFW recommends early communication and review of the project either before or during the early stages of the Bank proposal. A Bank Sponsor must include as part of the Bank proposal a wildlife connectivity action Credit proposal for each proposed Credit type, which must be evaluated and approved by CDFW. Information on wildlife connectivity requirements and checklists is located in the [Wildlife Connectivity Advance Mitigation Guidelines](#) posted on [CDFW's Connectivity Advance Mitigation webpage](#), which are separate from these Guidelines.

The Wildlife Connectivity Mitigation Guidelines provide crediting considerations for Bank Sponsors and information/documentation required for Credit proposals. CDFW recommends emailing the Connectivity Advance

²⁶ Fish & G. Code, § 1956, subd. (d).

Mitigation staff directly when proposing these Credit types at mitconnect@wildlife.ca.gov.

5.4 Proposal Process

CDFW's banking proposal process is divided into three stages:

- Draft Prospectus (optional);
- Prospectus; and
- Bank Agreement Package.

This staged approach allows CDFW to consider and provide feedback on Bank concepts before the Bank Sponsor invests the time and resources necessary to prepare a Bank Agreement Package. A Bank Sponsor may begin the process by submitting a Draft Prospectus (optional) prior to submitting the required Prospectus or may choose to begin the process with the Prospectus. The Bank Sponsor may only submit a Bank Agreement Package to CDFW for review once CDFW has deemed the Bank Prospectus acceptable.

Bank documents should be submitted to the appropriate [CDFW regional office](#). The regional office will assign a Regional Bank Coordinator who serves as the primary contact for Bank Sponsors, but CDFW's review may also include assistance from CDFW's headquarters staff, right of way agents, land surveyors, species specialists, and the Office of the General Council.

To assist Bank Sponsors, see Appendix A for a flowchart of the Bank proposal process for Draft Prospectuses, Prospectuses, and Bank Agreement Packages and Appendix B for a flowchart of the Bank Amendment process. In addition, Appendix C is a step-by-step description of the Bank proposal and Appendix D is a step-by-step description of the Amendment process.

Section 4, Considerations for Developing a Bank Proposal, provides Bank Sponsors with factors to consider when choosing a property to develop a Bank.

5.4.1 Draft Prospectus (optional) and Prospectus Submittal Process

When a Bank Sponsor is ready to submit a bank proposal they should use the Interagency Guidance for Preparing Mitigation Bank Proposal in California,

posted on [CDFW's Conservation and Mitigation and Banking Instructions and Templates web page](#). Once a Bank Sponsor is ready to submit a Draft Prospectus or Prospectus to CDFW, the Bank Sponsor should contact the appropriate CDFW Regional Banking Coordinator via email (see the [Contact webpage](#) and Section 1.3, Program Contacts) and request a tracking number for the proposed Bank. Once a tracking number is received, the Bank Sponsor must submit a bank submittal form, required documents from the checklist and corresponding fee to the appropriate [CDFW regional office](#). Bank Sponsors should reference the Instructions for Bank Sponsors, which is posted on [CDFW's Conservation and Mitigation and Banking Instructions and Templates web page](#), for more detailed information.

5.4.2 Draft Prospectus (optional)

The Draft Prospectus is a brief, concept-level proposal that is optional but recommended when a Bank Sponsor is considering developing a Bank, contemplating a specific Bank idea, developing a Bank with linear features (e.g., road, railroad) bisecting the property, or for those new to the Bank proposal process. The Draft Prospectus is optional but allows CDFW to provide the Bank Sponsor an initial evaluation on a proposed Bank and identify any potential issues that may prevent the development of the proposed Bank. The Draft Prospectus also allows for early collaboration between CDFW, the Review Team (as applicable), and the Bank Sponsor to clarify the intent of the Bank and to identify potential benefits and issues prior to preparing a Prospectus (see Section 5.4.3, Prospectus).

During review of a Draft Prospectus, CDFW may request site visits to identify potential obstacles to developing the Bank.

The information CDFW needs to evaluate a Draft Prospectus is found in the checklist posted on [CDFW's Conservation and Mitigation and Banking Instructions and Templates web page](#).

CDFW does not review Draft Prospectuses for completeness. However, Bank Sponsors are encouraged to provide all information in the Draft Prospectus checklist to ensure CDFW's review is as comprehensive as possible.

When CDFW receives a Draft Prospectus, CDFW will evaluate the information provided and notify the Bank Sponsor of any potential issues identified that may prevent the development of the proposed Bank.

5.4.3 Prospectus

The Prospectus is the first required submittal in the Bank proposal process to all potential signatory agencies. A Prospectus is a written summary of a proposed Bank containing a sufficient level of detail for CDFW to conduct an informed review and comment.²⁷ The information required in a Prospectus is found in the checklist posted on [CDFW's Conservation and Mitigation and Banking Instructions and Templates web page](#).

After CDFW receives the Prospectus and the corresponding fee (see Section 5.1, Fees), CDFW will review the Prospectus and make two determinations: whether the Prospectus is complete (completeness) and whether the Prospectus is acceptable (acceptability). CDFW may request clarifying information during the Prospectus review process.²⁸

5.4.3.1 Completeness Determination

After CDFW receives a Prospectus and the corresponding fee, it is required to determine if the Prospectus is complete and to provide written notice of its determination to the Person who submitted the Prospectus²⁹ (i.e., Bank Sponsor). The purpose of completeness review is to identify whether any required information needed to evaluate the Prospectus is missing. CDFW considers a Prospectus complete when all the information listed in the checklist posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#), which includes items listed in Fish and Game Code section 1798, subdivision (b)(2), is provided to CDFW.

If CDFW determines a Prospectus is not complete, the Bank Sponsor may make it complete and resubmit it.³⁰ When the Bank Sponsor resubmits the Prospectus, it must include a cover sheet identifying all new information incorporated into the Prospectus and where/how it has been so incorporated. CDFW will only commence subsequent completeness review if all missing and/or insufficient items identified in the not complete notice have been identified in the cover sheet. Items not identified in the cover sheet will not be reviewed.

CDFW and/or the Bank Sponsor may request mutually agreeable pauses

²⁷ Fish & G. Code, § 1797.5, subd. (h).

²⁸ Fish & G. Code, § 1798, subd. (d).

²⁹ Fish & G. Code, § 1798, subd. (c).

³⁰ *Ibid.*

during the Prospectus completeness review period (see Section 5.2.3, Mutually Agreeable Pause).

5.4.3.2 Acceptability Determination

If CDFW determines a Prospectus is complete, it is required to determine if the Prospectus is acceptable and to notify the Person who submitted the Prospectus of its determination³¹ (i.e. Bank Sponsor). The purpose of acceptability review is to determine whether the Prospectus contains a sufficient level of detail about the proposed Bank to support CDFW's informed review and comment.

CDFW may request clarifying information during the acceptability review period, however such a request does not suspend CDFW's review timeline (see Section 5.2.2, Clarifying Information Requests).³² Thus, CDFW encourages Bank Sponsors to provide the requested information as soon as possible. In addition, CDFW and/or Bank Sponsors may request a mutually agreeable pause (see Section 5.2.3, Mutually Agreeable Pause).

If CDFW determines a Prospectus is acceptable and there are comments within the Prospectus acceptability letter, CDFW recommends that the Bank Sponsor review CDFW's comments in detail. The Bank Sponsor should address all comments and issues in the Prospectus Acceptability letter before submitting a Bank Agreement Package to CDFW. CDFW is available to discuss comments and issues raised within the Prospectus Acceptability letter before the Bank Sponsor submits a Bank Agreement Package.

If CDFW determines a Prospectus is not acceptable, the Bank Sponsor may submit a revised prospectus to CDFW for review, along with a new Prospectus fee. After receiving a bank submittal form, the revised Prospectus and corresponding fee, CDFW will review the revised Prospectus for both completeness and acceptability.

When the Bank Sponsor submits the revised Prospectus, it must include a cover sheet identifying all new information incorporated into the Prospectus and where/how it has been so incorporated, any changes in a redline editable version (e.g., Word document), and a clean version. Changes not identified in the cover sheet or in redline will not be reviewed.

It is important to note that CDFW's Prospectus acceptability determination is

³¹ Fish & G. Code, § 1798, subd. (d).

³² *Ibid.*

distinct from other agencies' determination and separate from CDFW's Bank Agreement Package review. A determination that a Prospectus is acceptable does not guarantee that a related Bank Agreement Package will also be deemed acceptable.

5.4.4 Bank Agreement Package

If CDFW determines that a Prospectus is both complete and acceptable, the Bank Sponsor may prepare and submit to CDFW for review a Bank Agreement Package that is consistent with the Prospectus, including a cover sheet identifying major changes made since CDFW reviewed the Prospectus, including all the changes requested in the Prospectus Acceptability letter, changes requested by other agencies, and changes made by the Bank Sponsor.³³ If a major change is not identified in the cover sheet, CDFW will not review the change.

The information required in a Bank Agreement Package is located in the checklist posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#). Fish and Game Code section 1798.5, subdivision (a)(2) also requires that the Bank Agreement Package shall be consistent with the Prospectus. CDFW determines that a Bank Agreement Package is not consistent with the Prospectus if the Bank Agreement Package contains the following items:

- New Credit types (e.g., addition of new species Credit type) not described in the Prospectus; and/or
- Contains Bank property or parcels not described in the Prospectus. Note, the Bank Agreement Package may remove Bank property or parcels, but the Bank Agreement Package must include some of the Bank property or parcels described in the Prospectus to be consistent with the Prospectus.

If the Bank Agreement Package, is not consistent with the Prospectus then the Bank Sponsor must identify it in the cover sheet and submit an Unsolicited Change fee (see Section 5.4.4.3, Unsolicited Changes).

Prior to submittal, CDFW recommends Bank Sponsor perform a thorough review of the submittal to ensure all information, terms and numbers are accurate and consistent throughout the Bank Agreement Package.

³³ Fish & G. Code, § 1798.5, subds. (a)-(b).

After CDFW receives the bank submittal form, Bank Agreement Package, and the corresponding fee (see Section 5.1, Fees), CDFW will review the Bank Agreement Package and make two determinations: whether the Bank Agreement Package is complete (completeness) then whether the Bank Agreement Package is acceptable (acceptability). CDFW may request clarifying information during Bank Agreement Package acceptability.³⁴ CDFW may also request supplemental information during Bank Agreement Package acceptability (see Section 5.4.4.4, Supplemental Information Requested by CDFW).³⁵

As stated below, requests for supplemental information stop CDFW's Bank Agreement Package review time. CDFW and/or the Bank Sponsor may also request mutually agreeable pauses during the Bank Agreement Package stage. In addition, CDFW may extend the review period up to 60 calendar days.³⁶ Bank Sponsors may also submit Unsolicited Changes (see Section 5.4.4.3, Unsolicited Changes).

5.4.4.1 Completeness Determination

After CDFW receives a Bank Agreement Package and the corresponding fee, CDFW will determine if the package is complete and give written notice of the determination to the Person who submitted the package³⁷ (i.e., Bank Sponsor). CDFW considers a Bank Agreement Package complete when the package contains all the information listed in the Bank Agreement Package portion of the checklist posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#), which includes items listed in Fish and Game Code sections 1798.5, subdivision (a)(2) and 1798.5, subdivision (a)(2)(A)-(H).

To aid Bank Sponsors preparing Bank Agreement Packages, the PDT has developed the following templates, which are posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#):

- BEI template: See Section 2.2, Terms for definition of BEI.
- CE template: See Section 2.2, Terms for definition of CE.

³⁴ Fish & G. Code, § 1798.5, subd. (d).

³⁵ Fish & G. Code, § 1798.5, subd. (e).

³⁶ Fish & G. Code, § 1798.5, subd. (g).

³⁷ Fish & G. Code, § 1798.5, subd. (c).

- Long-term Management Plan template: This template ensures that the Bank property is managed, monitored, and maintained in perpetuity for its natural resource values. The Long-term Management Plan establishes objectives, priorities, tasks, and reporting requirements for the Bank property. Management actions are tailored to achieve desired outcomes for Covered Species, Covered Habitat, and/or LSA Resources, and to adapt to changing environmental factors (adaptive management). In the limited circumstances that non-contiguous parcels are approved by CDFW (see Section 4.1.2, Multiple Properties or Parcels), CDFW may require that the Long-term Management Plan address each parcel separately.
- Property assessment and warranty template: This template requires the property owner to provide a narrative explaining each recorded or unrecorded lien, encumbrance, or other exception to the title of the Bank property. It describes the limitations, if any, that exceptions on title may have on the permanent conservation of the Bank property's resources, based on a preliminary title report. When filling out the property assessment and warranty template, Bank Sponsors should refer to the [reference document for attachment 3](#) and [land survey reference document for attachments 4 and 5](#).

CDFW and/or the Bank Sponsor may request mutually agreeable pauses during the Bank Agreement Package completeness period (see Section 5.2.3, Mutually Agreeable Pauses).

If CDFW determines a Bank Agreement Package is not complete, the Bank Sponsor may make it complete and resubmit it.³⁸ When the Bank Sponsor resubmits the Bank Agreement Package, it should include a cover sheet identifying all new information incorporated into the Bank Agreement Package and where/how it has been so incorporated. CDFW will only commence subsequent completeness review if all missing and/or insufficient items identified in the not complete notice have been identified in the cover sheet. Items not identified in the cover sheet will not be reviewed.

5.4.4.2 Acceptability Determination

If CDFW determines a Bank Agreement Package is complete, it is then required to determine if the Bank Agreement Package is acceptable and to

³⁸ Fish & G. Code, § 1798.5, subd. (c)(1).

notify the Person who submitted the package of its determination³⁹ (i.e. Bank Sponsor). CDFW considers the following information, at a minimum, when determining if a Bank Agreement Package is acceptable:

- Whether the Bank Agreement Package provides sufficient certainty that the habitat preservation, restoration, establishment, or enhancement actions set forth in the package will be successful and that it will provide mitigation as intended;
- Whether the Development and Interim Management Plan and the Long-term Management Plan incorporate adaptive management principles and contain sufficient certainty that the perpetual management of the Bank property contain sufficient Performance Standards and management actions to sustain the Covered Species, Covered Habitat, and/or LSA Resources needs in perpetuity;
- Whether the Bank Agreement Package requires the provision of sufficient financial assurances to carry out the preservation, restoration, establishment, enhancement, and management activities set forth in the Development and Interim Management Plan and the Long-term Management Plan; and
- Whether the proposed Bank property includes sufficient available acreage that can be recorded into a CE and all easements and exclusions are properly identified and addressed.

CDFW may request supplemental information to fully evaluate the proposed Bank (see Section 5.4.4.4, Supplemental Information Requested by CDFW). The Bank Sponsor may also request an Unsolicited Change during the Bank Agreement Package acceptability review period (see Section 5.4.4.3, Unsolicited Changes). In addition, CDFW and/or Bank Sponsors may request a mutually agreeable pause (see Section 5.2.3, Mutually Agreeable Pause).

CDFW may also extend the Bank Agreement Package acceptability review period up to 60 calendar days if necessary to complete its review (see Section 5.2.1, CDFW Issued Extensions During Bank Agreement Package and Bank Amendment Package Review).

Once CDFW has made an acceptability determination, CDFW will notify the Bank Sponsor. If CDFW determines the Bank Agreement Package is

³⁹ Fish & G. Code, § 1798.5, subd. (c)(2).

acceptable, the Bank Sponsor may move forward with signing of the Bank Agreement and Bank Approval. The Bank Agreement must be signed within 90 days, if the Bank Agreement is not signed within 90 days then another Bank Agreement Package acceptability letter needs to be obtained.

CDFW may find a Bank Agreement Package is not acceptable and/or unacceptable. Not acceptable is due to the content of the Bank Agreement Package and unacceptable is due to the timing. If the Bank Sponsor does not reply to a supplemental information request within 60 days, or by the mutually agreeable pause date, CDFW will deem the Bank Agreement Package unacceptable.⁴⁰ If CDFW determines the Bank Agreement Package is not acceptable or unacceptable, it shall state the reasons for its determination.

If CDFW determines a Bank Agreement Package is not acceptable or unacceptable, the Bank Sponsor may submit a revised Bank Agreement Package to CDFW for review, along with a new Bank Agreement Package fee. After receiving a bank submittal form, the revised Bank Agreement package and corresponding fee, CDFW will review the revised Bank Agreement Package for both completeness and acceptability.

When the Bank Sponsor submits the revised Bank Agreement Package, it must include a cover sheet identifying all new information incorporated into the Bank Agreement Package and where/how it has been so incorporated, any changes in a redline editable version (e.g., Word document), and a clean version. Changes not identified in the cover sheet or in redline the Bank Agreement Package will not be reviewed.

5.4.4.3 Unsolicited Changes

A Bank Sponsor may propose changes to a Bank Agreement Package that were not solicited by CDFW or the Review Team during CDFW's acceptability review period. However, pursuant to Fish and Game Code section 1798.5, subdivision (f), CDFW is required to charge an Unsolicited Change fee to cover the reasonable cost of CDFW's services in reviewing the changes (see Section 5.1, Fees). When CDFW receives the Unsolicited Change fee, the bank submittal form, and all required Bank documents, a new 90-day acceptability review period begins.⁴¹

⁴⁰ Fish & G. Code, § 1798.5, subd. (e).

⁴¹ Fish & G. Code, § 1798.5, subd. (f).

Bank Sponsors must provide clean and redlined versions of the Bank Agreement Package, as well as a cover sheet identifying how and where Unsolicited Changes were incorporated into the Bank Agreement Package, along with the current revision date. Changes not identified in the cover sheet or in the redlined Bank Agreement document will not be reviewed. Pursuant to Fish and Game Code section 1798.5, subdivision (f), Unsolicited Changes may include, but are not limited to changes in:

- Parties to the draft Bank Agreement;
- Number or type of Credits;
- Bank size;
- Number or type of Covered Species, Covered Habitat, and/or LSA Resources;
- Credit Release schedule;
- Service Area; and
- Bank design.

Other changes CDFW considers as Unsolicited Changes include, but are not limited to:

- Updating the Bank Agreement to conform to the current BEI or CBEI template; and
- Changing the kind of Bank (e.g., a preservation-only Bank to a Bank that includes construction).

If the Bank Sponsor subsequently proposes another Unsolicited Change or another batch of Unsolicited Changes to the Bank Agreement Package, the Bank Sponsor must submit a new Unsolicited Change fee, the bank submittal form, and all required documents, at which point a new 90-day acceptability review begins.

5.4.4.4 Supplemental Information Requested by CDFW

If CDFW needs supplemental information in order to fully evaluate the proposed Bank, CDFW will provide the Bank Sponsor with a written

supplemental information request.⁴² The request will typically be in the form of a letter sent via e-mail. Comments provided by CDFW to the Bank Sponsor during the Bank Agreement Package acceptability review period constitute a supplemental information request.

The Bank Sponsor has 60 days from its receipt of the letter to provide the supplemental information requested. Responses to supplemental information requests must include clean and redlined editable versions (e.g., Word document) of the revised Bank Agreement Package that addresses all the requested supplemental information, and a cover sheet of major changes, along with the current revision date. If a major change is not identified in the cover sheet or in redline they will not be reviewed.

If CDFW does not receive all supplemental information requested within the 60-day response period, CDFW will deem the Bank Agreement Package unacceptable.⁴³ If the Bank Sponsor needs longer than 60 days to submit the requested information, they may request a mutually agreeable pause. Note, a mutually agreeable pause date must be received before the end of the 60 day period (see Section 5.2.3, Mutually Agreeable Pause).

When CDFW requests supplemental information from a Bank Sponsor, its Bank Agreement Package acceptability review timeline is paused. A new 90-day review period begins upon CDFW's receipt of the requested information.⁴⁴

CDFW may send multiple supplemental information requests, to fully evaluate the proposed Bank. CDFW will, to the extent possible, base additional supplemental information requests on the new information the Bank Sponsor provides in a revised Bank Agreement Package.

5.4.5 Bank Approval

Once the Bank Agreement is signed by all parties (e.g., Signatory Agencies, Bank Sponsor), the Bank is approved. Once the Bank is approved, the Bank Sponsor may establish the Bank in accordance with the Bank Agreement.

5.4.6 Established Bank

After the Bank is approved, the Bank Sponsor should expediently establish the Bank by meeting all the criteria identified in the bank establishment date

⁴² Fish & G. Code, § 1798.5, subd. (e).

⁴³ Fish & G. Code, § 1798.5, subd. (e).

⁴⁴ *Ibid.*

section of the Bank Agreement. These criteria may include, but are not limited, to the following:

- The Bank Agreement has been signed by all parties;
- The CE has been (1) accepted by a Grantee that has been approved by CDFW and the Review Team (as appropriate) and (2) recorded in the Official Records of the county in which the Bank property is located;
- The Bank Sponsor has complied with its obligation to furnish financial assurances; Any applicable Subordination Agreement(s) is executed and recorded; and
- Receipt of title insurance to CDFW and the Review Team (as appropriate) upon recordation of the CE.

Other items CDFW requires before bank establishment includes:

- All GIS data for the Bank's Service Area and Bank property and associated metadata preferably using the Environmental Systems Research Institute (ESRI) shapefile format or equivalent digital format.
- Digital closing package, including digital copies of all recorded documents and closing statement.

Once the Bank Sponsor meets all the establishment criteria, it should provide CDFW and the Review Team (as appropriate) with documentation showing the Bank Sponsor has met the criteria. If CDFW deems the documentation sufficient, it will confirm in writing that all criteria set forth in the Bank Agreement's bank establishment date section were met. Once all other Signatory Agencies to the Bank Agreement (if any) have also provided approval, the Bank will be considered established.

If a Bank Sponsor fails to establish a Bank within 12 months from the date CDFW approves the Bank, the Bank Sponsor must contact CDFW to identify if/which documents within the Bank Agreement Package must be updated and re-reviewed before the Bank can be established. These documents may include, but are not limited to, the title report, Property Assessment and Warranty, Phase 1 Environmental Site Assessment, financial assurances documents, and Endowment Agreement. If CDFW identifies that documents need to be updated and re-reviewed, the Bank Sponsor must submit the updated documents to CDFW, along with a [Complex Amendment fee](#) to

cover the cost of CDFW's additional review.

5.4.7 Amendments

After a Bank has been approved, the Bank Agreement can be amended. There are three types of Amendments: simple, complex, and agency (see Section 2.2, Terms for the definition of these Amendments).

A party, signatory to the Approved Bank, may request an Amendment by submitting to CDFW and the Review Team (as appropriate) a Bank Amendment Package containing the following:

- The original approved Bank Agreement;
- Any prior Amendments to the original approved Bank Agreement;
- Documents in clean and redlined editable versions (e.g., Word document) proposed to be amended or that would be affected by the proposed Amendment;⁴⁵
- A description of the proposed Amendment; and
- A draft Amendment Template posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#).

When the Amendment proposal is not initiated by a Signatory Agency, a Bank Amendment Package fee – either simple or complex pursuant to Fish and Game Code section 1798.6, subdivision (c)(1), depending on the nature of the proposed Amendment – must be submitted to CDFW with a Bank Amendment Package before CDFW will commence its review. If a Simple Amendment is complex, CDFW will send a letter to the party, signatory to the Approved Bank, requesting the Amendment, that a Complex Amendment fee must be submitted and to supplement their first payment to make up the fee difference.

A Simple Amendment, as defined in Section 2.2, Terms, includes a change in Bank Sponsor, property owner, Endowment Holder, reduction in a Bank's Service Area, "Bank name, ownership change, address change, or proposed decrease in the number of Credits proposed."⁴⁶ A Complex Amendment, as defined in Section 2.2, Terms, includes but is not limited to amending the BEI

⁴⁵ Fish & G. Code, § 1798.6, subd. (a).

⁴⁶ Fish & G. Code § 1798.6, subd. (c)(1).

or CBEI to conform to the current BEI or CBEI template, change in Service Area configuration (excluding a Service Area reduction); change in the number(s) or type(s) of Credits.

Another example of a Complex Amendment is adding a parcel to an Approved Bank. Aa parcel may be added to an Approved Bank if all the following criteria are met:

- The new proposed parcel is contiguous to the Approved Bank property (CDFW will consider scenarios where there is a railroad or other linear feature between the parcels on a case-by-basis);
- The new proposed parcel contains the same Covered Habitat, LSA Resources, and/or Covered Species, and therefore would support the issuance of the same Credit type(s), as the Approved Bank property; and
- During this complex amendment process the Bank Agreement shall be updated to the newest BEI or CBEI template.

If the new proposed parcel does not meet the criteria set forth above, the Bank Sponsor shall submit the new proposed parcel as a new Bank proposal, rather than an Amendment to the approved Bank Agreement Package, starting with the Bank Sponsor's submission of a new Draft Prospectus or Prospectus. If the approved Bank Agreement has other Signatory Agencies, CDFW will discuss with those Signatory Agencies and determine on a case-by-case basis whether the new proposed parcel should be processed as a new Bank proposal or as an Amendment.

After CDFW receives a bank submittal form, Bank Amendment Package and the corresponding fee (see Section 5.1, Fees), CDFW will review the Bank Amendment Package and make two determinations: whether the Bank Amendment Package is complete (completeness) then whether the Bank Amendment Package is acceptable (acceptability). CDFW may request clarifying information during Bank Amendment Package acceptability.⁴⁷ CDFW may also request supplemental information during the acceptability.

It is important to note that any Amendment to a Bank Agreement must be signed by all parties that previously approved Bank Agreement.

⁴⁷ Fish & G. Code, § 1798.5, subd. (d).

5.4.7.1 Completeness Determination

After CDFW receives a Bank Amendment Package and the corresponding fee, CDFW will determine if the appropriate fee amount was submitted and will notify the Bank Sponsor if submission of a new/additional fee is required. After CDFW has received the appropriate fee amount, the bank submittal form, and Bank Amendment Package, it is required to determine if the Bank Amendment Package is complete and will provide written notice of its determination to the party, signatory to the Bank Agreement, who submitted the Bank Amendment Package.⁴⁸ The purpose of completeness review is to identify whether any required information needed to evaluate the Bank Amendment Package is missing. There is no checklist for Bank Amendment Packages; CDFW considers a Bank Amendment Package complete when all the information listed below is provided to CDFW.

- The proposed changes are accompanied by an amendment document outlining all the requested changes to the Bank Agreement and a redlined editable version (e.g., Word document) of the approved Bank Agreement showing all proposed changes; and
- The information in the Bank Amendment Package contains sufficient information for CDFW to understand the proposed changes to the Bank Agreement and to make an acceptability determination.
- The Bank Amendment Package includes documentation (e.g., surveys, technical reports) to validate the amendment.

CDFW and/or the party, signatory to the Approved Bank, requesting the Amendment may request mutually agreeable pauses during the Bank Amendment Package review period (see Section 5.2.3, Mutually Agreeable Pause).

If CDFW determines a Bank Amendment Package is not complete, the Bank Sponsor may make it complete and resubmit it.⁴⁹ When the party, signatory to the Approved Bank, submits the Bank Amendment Package, it should include a cover sheet identifying all new information incorporated into the Bank Amendment Package and where/how it has been incorporated. CDFW will only commence subsequent completeness review if all missing and/or insufficient items identified in the not completeness notice have been

⁴⁸ Fish & G. Code, § 1798.6, subds. (b)(1) & (3).

⁴⁹ Fish & G. Code, § 1798.6, subd. (c)(4).

identified in the cover sheet. If items are not identified in the cover sheet CDFW will not review the Bank Amendment Package.

5.4.7.2 Acceptability Determination

If CDFW determines a Bank Amendment Package is complete, it is required to determine if the Bank Amendment Package is acceptable and to notify the party, signatory to the Approved Bank, who submitted the package of its determination.⁵⁰

When determining if a simple Bank Amendment Package is acceptable, CDFW considers, at a minimum:

- Whether the proposed change(s) can be feasibly implemented without jeopardizing success of the Bank.

When determining if a complex Bank Amendment Package is acceptable, CDFW considers, at a minimum:

- Whether the Bank property supports any requested change in Credit type or increase in Credit amount;
- Whether the Bank Amendment Package provides sufficient certainty that the habitat preservation, restoration, establishment, or enhancement actions proposed the package will be successful and that it will provide mitigation as intended;
- Whether the Development and Interim Management Plan (if applicable) and the Long-term Management Plan incorporate adaptive management principles and contain sufficient certainty that the perpetual management of the Bank property will provide for the Covered Species, Covered Habitat, or LSA Resource needs in perpetuity;
- Whether the Bank Amendment Package requires the provision of sufficient financial assurances to carry out the preservation, restoration, establishment, or enhancement, and management activities proposed in the package; and
- Whether the proposed change(s) can be feasibly implemented

⁵⁰ Fish & G. Code, § 1798.6, subd. (b)(2).

without jeopardizing the success of the Bank.

CDFW may request supplemental information to fully evaluate the proposed Amendment⁵¹ (see Section 5.4.7.4, Supplemental Information Requested by CDFW). The Bank Sponsor may also request an Unsolicited Change during the Bank Amendment Package acceptability review period⁵² (see Section 5.4.7.3, Unsolicited Changes). In addition, CDFW and/or the party, signatory to the Approved Bank, requesting the Amendment may request mutually agreeable pauses (see Section 5.2.3, Mutually Agreeable Pause).

CDFW may also extend the Bank Amendment Package acceptability review period up to 60 calendar days if necessary to complete its review (see Section 5.2.1, CDFW Issued Extensions During Bank Agreement Package and Bank Amendment Package Review).⁵³

Once CDFW has made an acceptability determination, CDFW will notify the party, signatory to the Approved Bank, who submitted the Bank Amendment Package. If CDFW determines the Bank Amendment Package is acceptable, the party, signatory to the Bank Agreement, who requested the amendment may move forward with signing of the Amendment.

CDFW may find a Bank Amendment Package is not acceptable and/or unacceptable. The first is due to the content of the Bank Amendment Package and the second is due to the timing. If the Bank Sponsor does not reply to a supplemental information request within 60 days, CDFW will deem the Bank Amendment Package unacceptable (see Section 5.4.7.4, Supplemental Information Requested by CDFW).⁵⁴ If CDFW determines the Bank Amendment Package is not acceptable or unacceptable, it shall state the reasons for its determination.

If CDFW determines a Bank Amendment Package is not acceptable or unacceptable, the party, signatory to the Approved Bank, requesting the Amendment may submit a revised Bank Amendment Package to CDFW for review, along with a new Bank Amendment Package fee. After receiving a bank submittal form, the revised Bank Amendment Package and corresponding fee, CDFW will review the package for both completeness and acceptability.

⁵¹ Fish & G. Code, § 1798.6, subd. (e).

⁵² Fish & G. Code, § 1798.6, subd. (f).

⁵³ Fish & G. Code, § 1798.6, subd. (g).

⁵⁴ Fish & G. Code, § 1798.6, subd. (e).

When the Bank Sponsor submits the revised Bank Amendment Package, it must include a cover sheet identifying all new information incorporated into the Bank Amendment Package and where/how it has been so incorporated, any changes in a redline editable version (e.g., Word document), and a clean version.

5.4.7.3 Unsolicited Changes

Parties, signatory to the Approved Bank, may propose changes to a Bank Amendment Package that were not solicited by CDFW or the Review Team during CDFW's acceptability review period. However, pursuant to Fish and Game Code section 1798.6, subdivision (f), CDFW is required to charge a fee to cover the reasonable cost of CDFW's services in reviewing the changes (see Section 5.1, Fees). When CDFW receives the Unsolicited Change fee, the bank submittal form, and all required documents, a new acceptability review period begins.⁵⁵

The party, signatory to the Approved Bank, requesting the Amendment must provide clean and redlined editable (e.g. Word Document) versions of the Bank Amendment Package, as well as a cover sheet identifying how and where Unsolicited Changes were incorporated into the Bank Amendment Package, along with the current revision date. Changes not identified in the cover sheet or in the redline will not be reviewed.

Pursuant to Fish and Game Code section 1798.5, subdivision (f), Unsolicited Changes include, but are not limited to changes in:

- Parties to the Bank Agreement;
- Number or type of Credits;
- Bank size;
- Number or type of Covered Species, Covered Habitat, and/or LSA Resources;
- Credit Release schedule;
- Service Area; and

⁵⁵ Fish & G. Code, § 1798.6, subd. (f).

- Bank design.

Other changes CDFW considers as Unsolicited Changes include, but are not limited to:

- If the Bank Agreement Package is not consistent with the Prospectus;
- Updating the Bank Agreement to conform to the current BEI or CBEI template; and
- Changing the kind of Bank (e.g., a preservation-only Bank to a Bank that includes construction).

If the party, signatory to the Approved Bank, requesting the Amendment proposes another Unsolicited Change or another batch of Unsolicited Changes to Bank Amendment Package, the party requesting the Amendment must submit a new Unsolicited Change fee, the bank submittal form, and all required documents, at which point a new acceptability review period begins.

5.4.7.4 Supplemental Information Requested by CDFW

If CDFW needs supplemental information in order to fully evaluate the proposed Amendment, CDFW will provide the Bank Sponsor with a written supplemental information request.⁵⁶ The request will typically be in the form of a letter sent via email. Comments provided by CDFW to the Bank Sponsor during the Bank Amendment Package acceptability review period constitute a supplemental information request.

The Bank Sponsor has 60 days from its receipt of the letter to provide the supplemental information requested. Responses to supplemental information requests must include clean and redlined editable versions (e.g., Word document) of the revised Bank Amendment Package that address all the requested supplemental information, and a cover sheet of major changes, along with the current revision date. If a major change is not identified in the cover sheet or in redline they will not be reviewed.

If CDFW does not receive all supplemental information requested within 60-day response period or if a mutual agreeable pause is not requested, CDFW

⁵⁶ Fish & G. Code, § 1798.6, subd. (e).

will deem the Bank Amendment Package unacceptable.⁵⁷ If the Bank Sponsor needs longer than 60 days to submit the requested information, it may request a mutually agreeable pause (see Section 5.2.3, Mutually Agreeable Pause).

When CDFW requests supplemental information from the party, signatory to the Approved Bank, requesting the Amendment, its Bank Amendment Package acceptability review timeline is paused. A new 90-day review period begins upon CDFW's receipt of the requested information.⁵⁸

CDFW may send multiple supplemental information requests in order to fully evaluate the proposed Amendment. CDFW will, to the extent possible, base additional supplemental information requests on new information provided by the party, requesting the amendment, in the revised Bank Amendment Package.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

Open Bank and Bank Closure Processes

6.1 Credit Release, Sale, and Transfer

Once a Bank is established, the Bank is considered open and Credits may be released when certain criteria are met, as specified in the Bank Agreement. Once Credits are released, the Bank Sponsor can sell them, including to buyers who may Transfer those Credits to a specific project to mitigate for project impacts.

6.1.1 Credit Release

Credits may be released in accordance with the Credit Release schedule set forth in the Bank Agreement. Credits are typically released in five or six stages, depending on the Credit type. Each Credit Release is tied to specific criteria, such as Bank Establishment, Endowment Funding, and/or the satisfaction of performance standards.

Bank Sponsors must submit a written request for each Credit Release to the appropriate Regional Banking Coordinator and the Signatory Agencies (as appropriate). In order to be approved, the request must demonstrate that all criteria for the requested Credit Release have been met in accordance with the Credit Release section of the Bank Agreement. CDFW and the Review Team (as appropriate) will review the request and either work with the Bank Sponsor to address unsatisfied criteria or approve the request in writing. If the Bank Agreement requires that the Implementation Fee be paid in installments, a portion of the Implementation Fee is due following each Credit Release, no later than the due date for the submission of the Bank's next annual report (see Section 5.1.1, Implementation Fee).

6.1.2 Credit Sale

Once a Credit Release is approved, the Bank Sponsor can sell the released Credits. Once the Bank Sponsor sells a Credit to a buyer, the buyer may not sell or otherwise convey it to any other entity.

On occasion, Banks are established for Bank Sponsors to mitigate for their own project impacts. In these instances, the Bank Sponsor may choose not to sell some or all of a Bank's Credits and instead uses all or a portion of the

Credits to mitigate its own project impacts.

The current Bank Agreement templates associated with Credit Sale are:

- Credit Sale Agreement (Sale without a Transfer)
- Credit Sale and Transfer Agreement

These templates are posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#).

6.1.3 Credit Transfer

A Credit buyer may use Credits purchased from a Bank to fulfill mitigation obligations, including under CEQA, a CESA incidental take permit, and/or an LSA Agreements, by transferring those Credits to a specific project as approved by the regulatory agency requiring the mitigation. Credit Transfer typically occurs at the same time as Credit Sale. However, where the Bank Agreement allows for advance or bulk Credit Sales – which involve the purchase of Credits in anticipation of impacts to biological resources from one or more future projects – a Credit buyer may purchase Credits from a Bank without transferring them to a project. Credit transfer determinations are based on a case-by-case basis by the regulatory agency requiring the mitigation.

It should be noted that Credits purchased from a Bank cannot be Transferred to a project after the Bank is closed (see Section 6.2, Bank Closure) or if the Bank is out of compliance. CDFW therefore recommends Bank Sponsors review the terms of each agreement associated with Credit Sale and/or Transfer for advance or bulk Credit Sales to understand the Bank Sponsor's responsibility in notifying advance or bulk Credit purchasers of Bank closure or if the Bank is out of compliance.

The current Bank Agreement templates associated with Credit Transfer are:

- Credit Sale and Transfer Agreement
- Credit Transfer Agreement

These templates are posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#).

6.2 Bank Closure

When a Bank is closed, the Bank can no longer sell or Transfer Credits. Bank closure occurs when CDFW and the Review Team (as appropriate) provide written approval that the Bank Sponsor has met all the criteria set forth in the Bank closure section of the Bank Agreement. These criteria include, but are not limited to:

- The Bank has met all Performance Standards;
- The Bank Sponsor has submitted all required annual reports;
- All required remedial actions have been completed and the performance standards for those remedial actions have been met;
- CDFW and the Review Team have conducted a pre-closure on-site inspection of the Bank property;
- All of the Bank's Credits have been transferred;
- The Bank Sponsor has notified the buyers of all of the Bank's Credits that have not been transferred to specific projects of its intent to close the Bank, pursuant to the Credit Sale agreements for said Credits;
- The Bank Sponsor has met all financial assurance requirements;
- The Bank Sponsor has paid the full Implementation Fee, if one is required see Section 5.1.1 Implementation Fee; and
- The Bank Sponsor has submitted a written request to close the Bank to CDFW and, if applicable, the Signatory Agencies.

Additional CDFW Requirements

This section identifies additional requirements that proposed Banks must meet before Bank Approval.

7.1 Land Protection

A Bank property must be conserved in perpetuity typically through recordation of a CE, pursuant to Fish and Game Code sections 1798.5, subdivision (a)(2)(C) and 1799, subdivision (a). The CE must be granted to a qualified entity, pursuant to [Civil Code section 815.3](#), as approved by CDFW and the Review Team (as applicable) during Bank Agreement Package review.

When submitting a Bank Agreement Package, Bank Sponsors must include a draft CE utilizing the current [CE template](#), and deviate as little as possible as deviations from the template will cause a delay in review. If the Bank Sponsor proposes any edits to the CE template, the Bank Sponsor must include in its submission to CDFW and the Review Team (as appropriate) a redlined editable version (e.g., Word document) of the CE template clearly showing all proposed changes.

During CDFW's Bank Agreement Package review, CDFW will review the draft CE, the property assessment and warranty, and other information related to the CE. As part of this review, CDFW will conduct entity due diligence on the proposed CE Grantee and land manager, if applicable. (see Section 7.4, Entity Due Diligence). The Bank Sponsor is responsible for recording the approved final CE across the Bank property during bank establishment (see Section 5.4.6, Established Bank).

If CDFW agrees to be the CE Grantee, CDFW will review the Bank Agreement Package and submit the CE to the [Wildlife Conservation Board](#) (WCB) for review. If WCB deems the CE acceptable, WCB will execute a Certificate of Acceptance and will coordinate with the Bank Sponsor's designated title or escrow provider to ensure proper recordation.

7.2 Financial Assurances

Pursuant Fish and Game Code section 1798.5, subdivision (a)(2)(G) and per

the Bank Agreement, the Bank Sponsor is responsible for providing financial assurances for the successful completion, development, management, monitoring, and remedial actions set forth in the Development and Interim Management Plan and the Long-term Management Plan. These financial assurances include Construction Security, Performance Security, Interim Management Security, and Compliance Security.

A Bank Sponsor may choose to provide financial security in the form of either: 1) an irrevocable standby letter of credit (LOC); or 2) cash deposited into a third-party escrow account, governed by an escrow agreement signed by CDFW. Contact the Regional Banking Coordinator for more information.

An LOC is an instrument issued by a financial institution to guarantee payment or performance of an obligation. If an LOC is provided to CDFW as security, it must name CDFW as the beneficiary and must use [CDFW's LOC template](#). If a Bank Sponsor proposes any edits to the LOC template, the Bank Sponsor must submit a redlined editable version (e.g., Word document) of the LOC template clearly showing all proposed changes to CDFW for review and approval. An LOC must be issued for at least one year and provide an expiration date that will be automatically extended annually until CDFW releases the LOC based on the completion of all obligations that the LOC secures. Details on the requirements for different types of securities and LOCs are available in the BEI and CBEI templates.

7.3 Endowments

The Bank Sponsor is required to fund the long-term management of the Bank property in perpetuity, pursuant to Fish and Game Code section 1798.5, subdivision (a)(2)(F). This is accomplished through the establishment and full funding of an endowment account held by a third-party entity. The Endowment Holder administers in perpetuity in accordance with Government Code sections 65965-65968, the Bank Agreement, and the Endowment Agreement.

As part of the Bank Agreement Package, the Bank Sponsor must submit to CDFW and the Review Team (as appropriate), for review and approval, a draft Endowment Fund analysis and schedule to ensure that the endowment will adequately fund perpetual management, maintenance, monitoring, and reporting activities pursuant to the Long-term Management Plan. If non-contiguous parcels are proposed in the Bank, CDFW may require a separate Endowment Fund analysis for each parcel.

If the CE Grantee is a third-party entity (rather than CDFW), a stewardship agreement may be executed by the Bank Sponsor and the third-party entity to fund the Bank's monitoring and reporting costs done by the CE grantee. The stewardship agreement is separate and apart from the Endowment Agreement and the funding it pertains to is separate and apart from the long-term management endowment discussed above. The Bank Sponsor should submit the draft stewardship agreement to CDFW and the Review Team (as appropriate) for review and approval as an exhibit within the Bank Agreement Package.

7.4 Entity Due Diligence

During the Bank Agreement Package review period, CDFW will conduct due diligence to ensure each proposed CE Grantee, land manager, and Endowment Holder meets the requirements of [Government Code sections 65965-65968](#). CDFW's due diligence process includes review of documents listed on the Checklist for Entities being Considered to Hold Conservation Easements or Manage and Steward Mitigation Land, which is incorporated herein by reference, and is posted on [CDFW's Entity Due Diligence for Mitigation Land](#) webpage.

7.5 Real Property Document Analysis

CDFW's MPDA Team is responsible for reviewing and analyzing all real property documents associated with CDFW's banking real estate transactions, as the transactions are regulated by the [Department of General Services Real Estate Services Division](#). The MPDA Team consists of land surveyors and right-of-way agents.

The MPDA Team will review all land survey products, which include legal descriptions found in associated Bank real estate instruments necessary for Bank Approval and establishment (e.g., CE, access agreement, Subordination Agreements).

The right-of-way agents review real property documents and examine title reports to verify legal ownership of Bank properties and the nature, extent, and location of land entitlements and encumbrances affecting title (e.g., legal access, rights-of-way, easements, leases, liens, mineral rights). CDFW's right-of-way agents also review Phase I Environmental Site Assessments.

To determine if a Bank Agreement Package is acceptable, CDFW's MPDA Team requires the following items for review.

- Board resolution or documentation verifying Grantee's authority to accept property rights in a CE and Person that will be representing the Grantee and will sign the CE;
- Proforma title insurance commitment for the Bank property, which is a preliminary document outlining the terms under which a title insurance policy will be issued; and
- Draft joint title or escrow instructions (between Grantor and Grantee of the real estate instrument).

7.6 Tribal Coordination

In accordance with [CDFW's Tribal Communication and Consultation Policy](#), in the Prospectus stage, CDFW will send an informational letter to tribes that have an interest in the proposed Bank property. If other agencies are proposed signatory to the bank, CDFW will coordinate with the Review Team to initiate tribal coordination.

Prior to submission of the Bank Agreement Package, each Bank Sponsor is required to conduct a cultural resources records search to identify any potential presence of cultural resources upon the Bank property. The resulting report must be included in the Bank Agreement Package.

During Bank establishment or maintenance, if cultural resources are discovered, the Bank Sponsor must notify CDFW so that CDFW may conduct additional tribal outreach, field surveys, and/or site inspections.

7.7 Adding CDFW as Signatory to Already Approved Banks

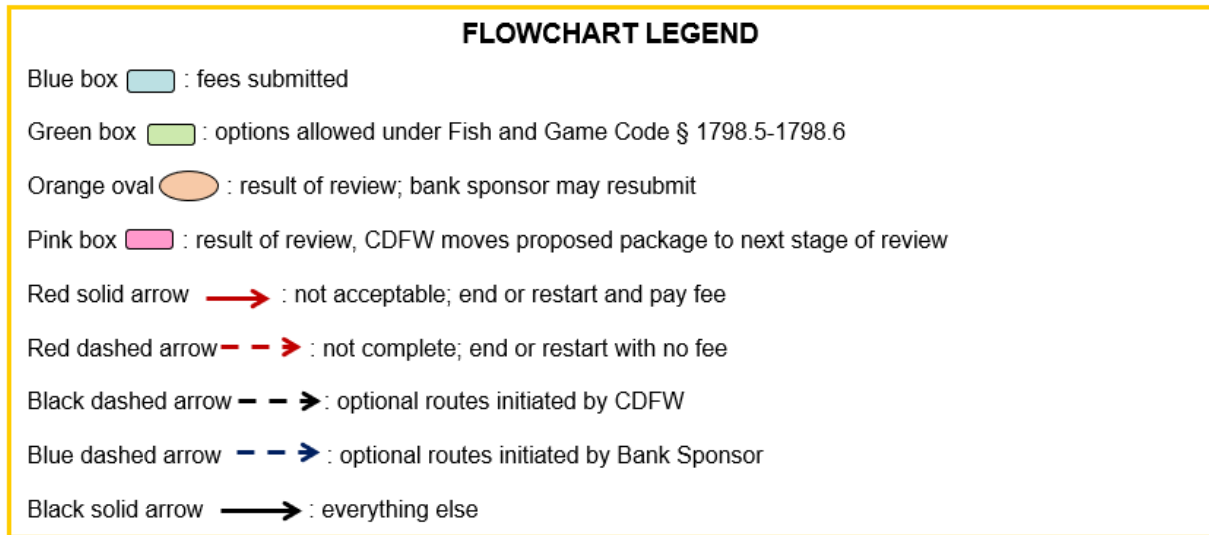
CDFW is not signatory to all Banks in California. Banks established without CDFW approval include those that only offer Credits for species listed under the federal Endangered Species Act and/or Credits for impacts to Waters of the United States. If a Bank Sponsor wants to add CDFW as a signatory to any such Bank, it must go through CDFW's banking proposal process and pay all

corresponding fees, as set forth above⁵⁹ and is considered a new bank for CDFW.

To gain CDFW approval, a Bank Agreement for such a Bank must utilize the current BEI or CBEI template. As such, where the Bank Agreement approved by the other agency/agencies is based on an outdated BEI or CBEI template, Bank Sponsors should include the Review Team in all discussions and correspondence regarding the addition of CDFW as a Bank signatory.

CDFW may also require conservation actions in addition to those required by the other agency/agencies. CDFW will coordinate with the Review Team to ensure that appropriate conservation strategies necessary to provide appropriate mitigation will be implemented at the proposed Bank. These changes may require Amendments with the other Signatory Agencies.

⁵⁹ Fish & G. Code, §§ 1798-1799.



Flowchart Footnotes

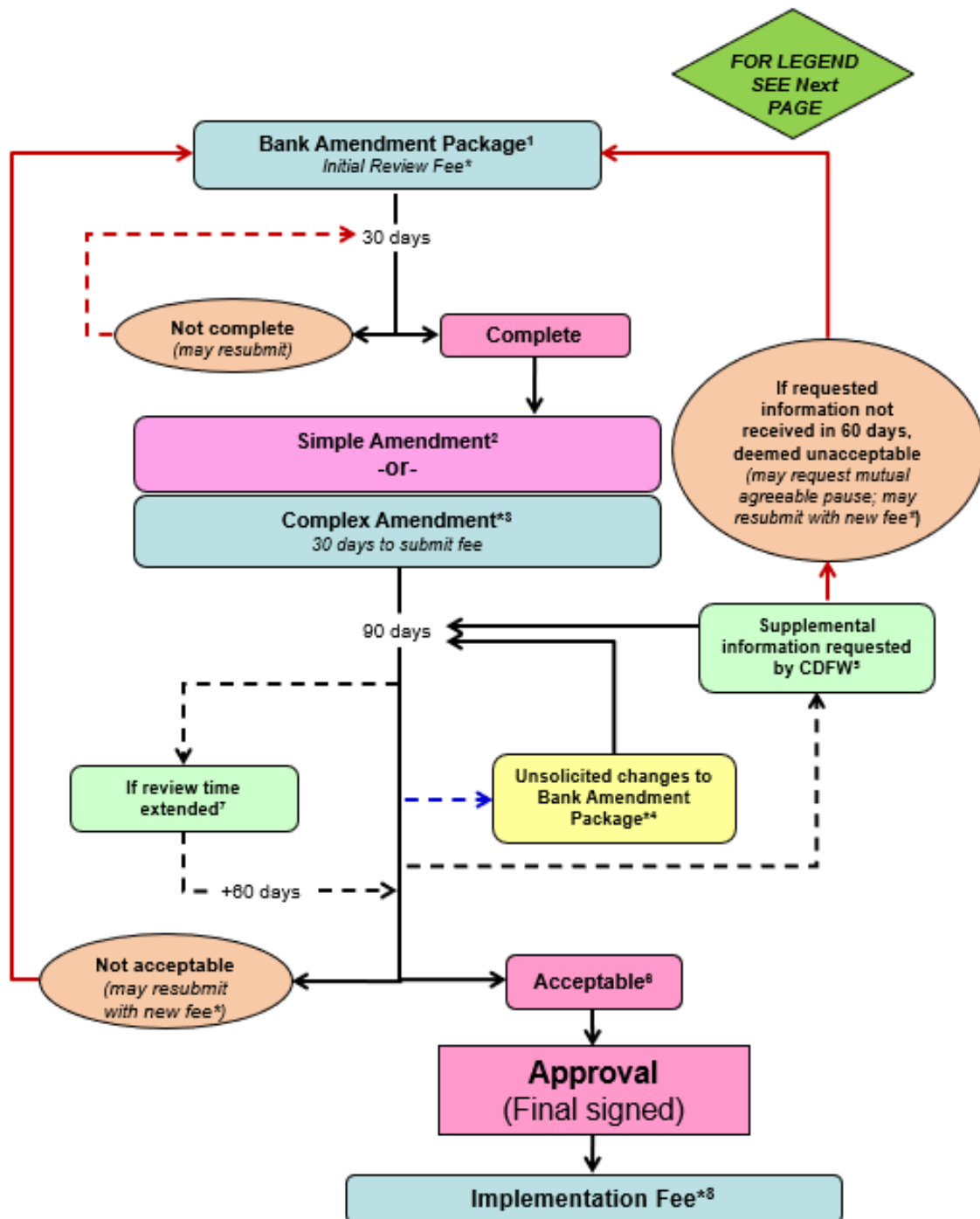
For Prospectus and Bank Agreement Packages

- 1 Option to submit both a Draft Prospectus and Prospectus as shown (Fish & G. Code, § 1798, subds. (a)(1) & (b)(1).).
- 2 Option to skip the Draft Prospectus and submit a Prospectus. Fish and Game Code section 1798, subdivision (b)(1). Bank Sponsor may request mutual agreeable pauses at the Prospectus stage.
- 3 A Prospectus may be considered complete if it includes, at a minimum, all of the information listed in Fish and Game Code section 1798, subdivision (b)(2) and items found on the checklist posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#).
- 4 A Bank Agreement Package fee* is described in Fish and Game Code section 1798.5, subdivision (b). Bank Sponsor may request mutual agreeable pauses at the Bank Agreement Package Stage.
- 5 A Bank Agreement Package may be considered complete if it includes all of the information listed in Fish and Game Code section 1798.5, subdivision (a)(2) and items found on the checklist posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates webpage](#).
- 6 If the Person seeking to establish the Bank proposes any changes to the Bank Agreement Package during the 90-day review period, and the changes necessitate additional review, a fee* (per Unsolicited Change) shall be assessed by the regional manager to cover the reasonable cost of the

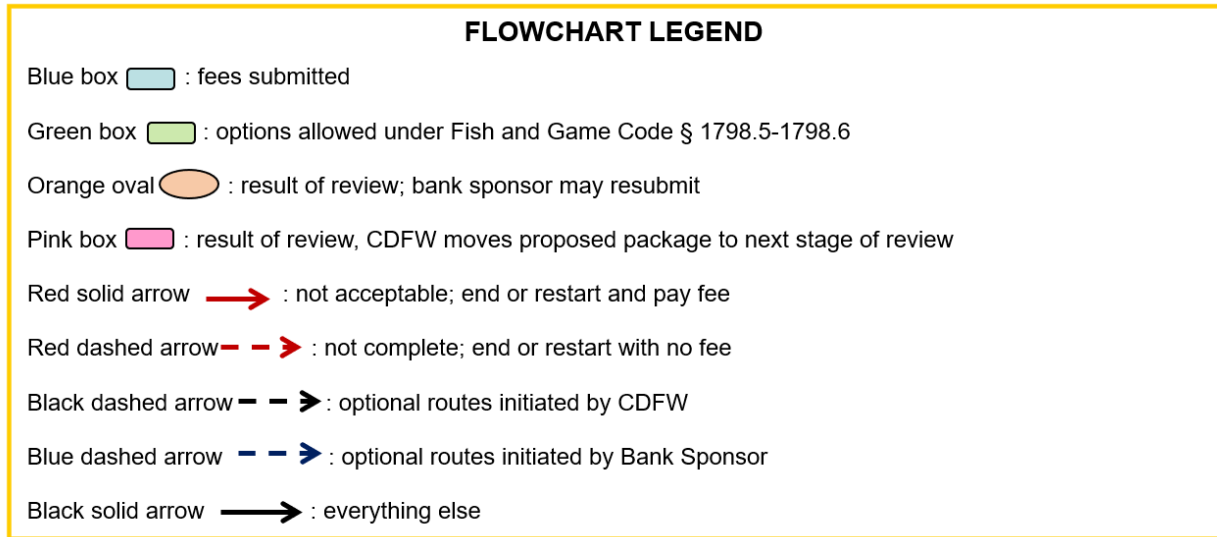
department's services in reviewing the changes. A new 90-day review period will begin upon receipt of the proposed changes and corresponding fee* (Fish & G. Code. § 1798.5, subd. (f).).

- 7 If CDFW needs supplemental information during its review, the regional manager will make a written request. The Bank Sponsor has 60 days to provide response, otherwise package is deemed unacceptable (Fish & G. Code § 1798.5, subd. (e).).
- 8 If CDFW determines, for specified reasons, that 90 days is insufficient time to complete its review of the Bank Agreement Package, CDFW may extend the 90-day period for reviewing the Bank Agreement Package by an additional 60 calendar days (Fish & G. Code, § 1798.5, subd (g).).
- 9 The CDFW shall collect an Implementation Fee* per Bank, as described in Fish and Game Code section 1799, subdivision (e)(2), to cover CDFW's implementation and compliance monitoring costs. A 10% penalty fee will be incurred on the amount due if fee is not paid by the due date. The Implementation Fee* may be paid in lump sum or in installments associated with Credit Releases, with each installment to be calculated as follows:
$$((\text{Credits Released}/\text{total Credits}) \times \text{total Implementation Fee*}).$$
- * See [fee schedule](#) for appropriate fees, fees are adjusted annual per Fish and Game Code section 1799.1, subdivision (a).

Appendix B – Process Flowchart for Bank Amendment Packages



*See [fee schedule](#) for appropriate fees, fees are adjusted annual per Fish and Game Code section 1799.1, subdivision (a).



Flowchart Footnotes

Bank Amendment Package

- 1 Fish and Game Code section 1798.6, subdivision (a) describes what is included in a Bank Amendment Package. Fish and Game Code section 1798.6, subdivision (c)(2) describes the initial review fee.* Bank Sponsors may request mutual agreeable pauses at the Bank Amendment Package stage.
- 2 Fish and Game Code section 1798.6, subdivision (c)(3) describes how an additional fee is decided. 90-day review period will not start until the fee is received.
- 3 CDFW shall provide written notice as to whether the Bank Agreement Package is complete and whether the additional fee is needed to cover CDFW's review costs. The additional fee* is due within, 30 days of that notice (Fish & G. Code, § 1798.6, subd. (c)(3).).
- 4 Fish and Game Code section 1798.6, subdivision (f) If the party, signatory to the Approved Bank, seeking to amend the Bank proposes changes to the Bank Amendment Package that have not been solicited by CDFW during its review then a fee* (per Unsolicited Change) may be required by the regional manager to cover the reasonable cost of CDFW's services in reviewing the changes. A new 90-day review period will begin upon receipt of the proposed changes and the corresponding fee.*
- 5 Fish and Game Code section 1798.6, subdivision (e), if CDFW needs supplemental information during its review, the regional manager will make the written request. The Bank Sponsor has 60 days to provide the

requested information, otherwise the package is deemed unacceptable, unless a mutual agreeable pause has been agreed to between CDFW and the party, signatory to the Bank Agreement, requesting the Amendment.

- 6 CDFW shall determine whether or not the Bank Amendment Package is acceptable and notify the party, signatory to the Approved Bank, who submitted the package of the determination (Fish & G. Code, § 1798.6, subd. (c)(4).).
- 7 If the CDFW determines that 90 days is insufficient time to complete its review of the Bank Amendment Package CDFW may extend the 90-day period for reviewing the Bank Amendment Package by an additional 60 calendar days (Fish & G. Code § 1798.6, subd. (g).).
- 8 Per Fish and Game Code section 1799, subdivision (e)(2), CDFW shall collect an Implementation Fee* per Bank, to cover CDFW's implementation and compliance costs. A 10% penalty fee will be incurred on the amount due if fee is not paid by the due date. Each Implementation Fee is calculated as follows (Credits Released/total Credits) X total Implementation Fee*).

*See [fee schedule](#) for appropriate fees, fees are adjusted annual per Fish and Game Code section 1799.1, subdivision (a).

Appendix C – Basic Outline of Fees and Review Steps for bank Prospectuses and Bank Agreement Packages

This document is intended to describe in outline form the process for Prospectus and Bank Agreement Packages fees* and review steps as directed by Fish and Game Code sections 1797 – 1799.1. This outline provides additional explanation of the [Appendix A](#).

Optional Draft Prospectus Stage:

Optional Draft Prospectus:

- Draft Prospectus fee* (Fish & G. Code, § 1798, subd. (a)(1).)
- 30 days for CDFW to make an initial evaluation and give notice of potential issues

Prospectus Stage:

Prospectus:

- Prospectus fee* (OR Prospectus fee* minus the Draft Prospectus fee* submitted, if a Draft Prospectus was submitted and initially evaluated) (Fish & G. Code, § 1798, subd. (b)(1).)
- 30 days for CDFW to review and determine completeness
 - **If Not Complete** – CDFW will notify Bank Sponsor, may be made complete and resubmitted, after new updated document received, 30 days for CDFW to review – no fee (Fish & G. Code, § 1798, subd. (c).)
 - **If Complete** - 90 days for CDFW to review and determine whether or not is acceptable. CDFW may request clarifying information during review – no fee (Fish & G. Code, § 1798, subd. (d).)
 - **If Not Acceptable** - may resubmit proposal with new Prospectus fee* (restart 30-day completeness review) (Fish & G. Code, § 1798, subd. (e)(2).)
 - **If Acceptable** – may submit Bank Agreement Package (below)

Bank Agreement Package Stage:

Bank Agreement Package:

- Bank Agreement Package fee* (Fish & G. Code, § 1798.5, subd. (b).)
- 30 days for CDFW to review and determine completeness
 - **If Not Complete** – CDFW will notify Bank Sponsor, may be made complete and resubmitted, after new updated document received, 30 days for CDFW to review – no fee (Fish & G. Code, § 1798.5, subd. (c)(1).)
 - **If Complete** - 90 days for CDFW to review and determine whether or not is acceptable. CDFW may request clarifying information during review (Fish & G. Code, § 1798.5, subd. (d).) – no fee
 - **CDFW Supplemental Information Requests** - CDFW (regional manager or equivalent/higher level) may request (in writing) supplemental information, which includes CDFW comments on the Bank Agreement Package, during review - no fee
 - If requested information not received within 60 days, from the date on supplemental information request letter, then Bank Agreement Package will be deemed **unacceptable** (Fish & G. Code, § 1798.5, subd (e).). If the Bank Sponsor needs longer than 60 days to submit the requested supplemental information then the Bank Sponsor may request a mutually agreeable pause with CDFW. If Bank Agreement Package is deemed unacceptable, Bank Sponsor may resubmit Bank Agreement Package with new Bank Agreement Package fee* (restart 30-day completeness review) (Fish & G. Code, § 1798.5, subd. (h).)
 - New 90-day review for acceptability begins upon receipt of requested information (Fish & G. Code, § 1798.5, subd. (e).)
 - **Unsolicited Changes** – if Bank Sponsor seeking to establish the Bank proposes unsolicited changes necessitating additional review time, CDFW (regional manager or equivalent/higher level) shall assess change review fee* (Fish & G. Code, § 1798.5, subd. (f).)
 - New 90-day review for acceptability begins upon receipt of proposed changes and fee

- **CDFW Issued Extension** - If CDFW determines 90 days is insufficient to complete review (e.g., if proposed Bank is complex, includes a development or construction plan, or documents substantially deviate from standard forms), it may extend review time by 60 days (Fish & G. Code, § 1798.5, subd. (g).)
 - **If Not Acceptable** – may resubmit with new Bank Agreement Package fee* (restart 30-day review for completeness) (Fish & G. Code, § 1798.5, subd. (h).)
 - **If Acceptable** – CDFW notifies Bank Sponsor; finalizes and circulates documents for signature
 - No Bank shall be operative, vested or final, nor Bank credits issued, until CDFW has approved the Bank Agreement in writing and (if applicable) CE recorded
 - Implementation fee* – may be apportioned by # Credits Released/total # Credits approved for Bank, which would be due after a Credit Release and no later than the annual report due date
 - A penalty of 10 percent of the amount of fees due shall be collected if there is a failure to remit the amount payable when due (Fish & G. Code, § 1799, subd. (e)(2).)

For detailed information on submitting bank documents, view the Instructions for Bank Sponsors posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates web page](#).

***See [current banking fee schedule](#) for appropriate fees, fees are adjusted annually per Fish and Game Code section 1799.1, subdivision (a).**

Disclaimer: This outline is for general information only, and does not limit or change the requirements of Chapter 7.9 of the Fish and Game Code.

Appendix D – Basic Outline of Fees and Review Steps for Bank Amendments

This document is intended to describe in outline form the process for Bank Amendment Package fees* and review steps as directed by Fish and Game Code Sections 1797 – 1799.1. This outline provides additional explanation of Appendix B.

Bank Amendment Package

- Bank Amendment fee* Initial Review Fee (Fish & G. Code, § 1798.6, subd. (c)(1).)
- 30 days for CDFW to review and determine completeness
 - **If Not Complete** - may be made complete and resubmitted – no fee
 - **If Complete** - 90 days for CDFW to review and determine acceptability (Fish & G. Code, § 1798.6, subd. (b).). CDFW may request clarifying information during the Bank Amendment review process (Fish & G. Code, § 1798.6, subd. (b)(2).) – no fee
 - **If Simple Amendment** – no additional fee
 - **If Complex Amendment** –Complex amendment fee* subtracted from fee submitted if a Simple Amendment fee was submitted instead of a Complex Amendment fee (Fish & G. Code, § 1798.6, subd. (c)(1).)
- **CDFW Supplemental Information Request** - CDFW (regional manager or equivalent/higher level) may request (in writing) supplemental information, which includes CDFW comments on the Bank Amendment Package, during review - no fee
 - If requested information not received within 60 days, then Bank Amendment Package shall be deemed unacceptable (Fish & G. Code, § 1798.6, subd. (e).). If the Bank Sponsor needs longer than 60 days to submit the requested supplemental information then the Bank Sponsor may request a mutually agreeable pause with CDFW. If Bank Amendment Package is deemed

unacceptable, Bank Sponsor may resubmit Bank Amendment Package with new Bank Amendment fee* (restart 30 day completeness review) (Fish & G. Code, §1798.6, subd. (h).)

- New 90-day review for acceptability begins upon receipt of requested information (Fish & G. Code, § 1798.6, subd. (e).)
- **Unsolicited Changes** - If Bank Sponsor seeking Bank Amendment proposes changes necessitating additional review time (and not solicited by CDFW), CDFW shall collect change review fee* (Fish & G. Code, § 1798.6, subd. (f).)
 - New 90-day review for acceptability begins upon receipt of proposed changes and fee
- **CDFW Issued Extension** - If CDFW determines 90 days is insufficient to complete review (e.g., if proposed Bank Amendment is complex or documents deviate from standard forms), it may extend acceptability review time by 60 days (Fish & G. Code, § 1798.6, subd. (g).)
 - **If Not Acceptable** - May resubmit with new Bank Amendment fee* (restart 30-day review for completeness) (Fish & G. Code, § 1798.6, subd. (h).)
 - **If Acceptable** – Notify Bank Sponsor; finalize and circulate documents for signature
 - No Bank Amendment shall be operative, vested or final, nor Bank Credits issued, until CDFW has approved Bank Amendment in writing and, if applicable, CE recorded
 - Implementation Fee* – may be apportioned by number of Credits Released/total number of Credits approved for Bank

- A penalty of 10 percent of the amount of fees due shall be collected if there is a failure to remit the amount payable when due (Fish & G. Code, § 1799, subd. (e)(2).)

For detailed information on submitting bank documents, view the Instructions for Bank Sponsors posted on [CDFW's Conservation and Mitigation Banking Instructions and Templates web page](#).

***See [current banking fee schedule](#) for appropriate fees, fees are adjusted annually per Fish and Game Code section 1799.1, subdivision (a).**

Disclaimer: This outline is for general information only and does not limit or change the requirements of Chapter 7.9 of the Fish and Game Code.