

**ECONOMIC AND FISCAL IMPACT STATEMENT**

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME Delta Stewardship Council	CONTACT PERSON Chris Stevens	TELEPHONE NUMBER 916-445-0441
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Regulatory Policies Contained in the Delta Plan		NOTICE FILE NUMBER Z -2012-1116-01

**ECONOMIC IMPACT STATEMENT****A. ESTIMATED PRIVATE SECTOR COST IMPACTS** (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts businesses and/or employees  
 b. Impacts small businesses  
 c. Impacts jobs or occupations  
 d. Impacts California competitiveness  
 e. Imposes reporting requirements  
 f. Imposes prescriptive instead of performance  
 g. Impacts individuals  
 h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) \_\_\_\_\_

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: Unknown Describe the types of businesses (Include nonprofits.): See Attachment 1Businesses directly involved in covered actions and businesses indirectly affected by local agency's cost recovery.Enter the number or percentage of total businesses impacted that are small businesses: Unk.Enter the number of businesses that will be created: Unknown eliminated: UnknownExplain: See Attachment 1. Unlikely to eliminate any; achieving coequal goals could induce net business creation.4. Indicate the geographic extent of impacts:  Statewide  Local or regional (List areas.): The Delta and regions that use water from the Delta watershed.5. Enter the number of jobs created: Unk. or eliminated: Unk. Describe the types of jobs or occupations impacted: See Attachment 1. Could affect construction and restoration jobs; compliance activity and achieving coequal goals could induce net job creation.6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?  
 Yes  No If yes, explain briefly: See Attachment 1. From statewide perspective, any impacts potentially outweighed by restoration and water reliability gains.**B. ESTIMATED COSTS** (Include calculations and assumptions in the rulemaking record.)1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ See belowa. Initial costs for a small business: \$ none Annual ongoing costs: \$ Unknown Years: N/Ab. Initial costs for a typical business: \$ none Annual ongoing costs: \$ Unknown Years: N/Ac. Initial costs for an individual: \$ none Annual ongoing costs: \$ Unknown Years: N/Ad. Describe other economic costs that may occur: See Attachment 1. Range of total annual costs imposed on all businesses and individuals involved in covered actions or cost recovery: \$5.8 to \$8.4 million.

**ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)**

2. If multiple industries are impacted, enter the share of total costs for each industry: For covered actions, likely most affected industry is construc.  
or costs not specific to covered action, all industries could bear small cost. See Attachment 1.
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ none
4. Will this regulation directly impact housing costs?  Yes  No If yes, enter the annual dollar cost per housing unit: \_\_\_\_\_ and the number of units: \_\_\_\_\_
5. Are there comparable Federal regulations?  Yes  No Explain the need for State regulation given the existence or absence of Federal regulations: See Attachment 1. Legislative direction; Delta resources and issues unique to California  
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A

**C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)**

1. Briefly summarize the benefits that may result from this regulation and who will benefit: Local and statewide benefits accrue to water users and all Californians from restoring the Delta ecosystem, improving water supply reliability, and improving flood protection.  
Benefits expected to be large but unquantified. See Attachment 1.
2. Are the benefits the result of:  specific statutory requirements, or  goals developed by the agency based on broad statutory authority?  
explain: Policies to implement Delta Reform Act of 2009 to achieve restoration and water supply goals.
3. What are the total statewide benefits from this regulation over its lifetime? \$ Unquantif.

**D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)**

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Range of alternatives from less restrictive and regulatory to more restrictive were evaluated by the Council and in EIR, with extensive public involvement.  
See Attachment 1
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:
- |                |                            |                               |
|----------------|----------------------------|-------------------------------|
| Regulation:    | Benefit: \$ <u>Unknown</u> | Cost: \$ <u>6.2-8.9 M/Yr.</u> |
| Alternative 1: | Benefit: \$ <u>Unknown</u> | Cost: \$ <u>Unknown</u>       |
| Alternative 2: | Benefit: \$ <u>Unknown</u> | Cost: \$ <u>Unknown</u>       |

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: See Attach. 1. Aggregate benefits and costs depend on many unknowns. Council considered the benefits and impacts as part of decision process, and selected policies judged to provide greatest net benefit consistent with legislation.
4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?  Yes  No  
explain: Some specific actions mandated by legislation. Some selected to be consistent with existing fed. or state standards.

Otherwise uses performance standards and does not mandate the use of specific technologies or equipment. See Attach. 1.

**E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.**

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?  Yes  No (If No, skip the rest of this section.)

Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 1:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 2:	\$ _____	Cost-effectiveness ratio: \$ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in \_\_\_\_\_, Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

b. will be requested in the \_\_\_\_\_ Governor's Budget for appropriation in Budget Act of \_\_\_\_\_  
(FISCAL YEAR)

2. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

a. implements the Federal mandate contained in \_\_\_\_\_

b. implements the court mandate set forth by the \_\_\_\_\_  
court in the case of \_\_\_\_\_ vs. \_\_\_\_\_

c. implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_ at the \_\_\_\_\_  
election; (DATE)

d. is issued only in response to a specific request from the \_\_\_\_\_  
\_\_\_\_\_, which is/are the only local entity(s) affected;

e. will be fully financed from the \_\_\_\_\_ authorized by Section \_\_\_\_\_  
(FEES, REVENUE, ETC.)  
\_\_\_\_\_ of the \_\_\_\_\_ Code;

f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

g. creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

Savings of approximately \$ \_\_\_\_\_ annually.

4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

**ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)**

5. No fiscal impact exists because this regulation does not affect any local entity or program.
6. Other. See Attachment 1.

**B. FISCAL EFFECT ON STATE GOVERNMENT** (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year. It is anticipated that State agencies will:
- a. be able to absorb these additional costs within their existing budgets and resources.
- b. request an increase in the currently authorized budget level for the \_\_\_\_\_ fiscal year.
2. Savings of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
3. No fiscal impact exists because this regulation does not affect any State agency or program.
4. Other. See Attachment 1

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
2. Savings of of approximately \$ \_\_\_\_\_ in the current State Fiscal Year.
3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
4. Other. See Attachment 1

AGENCY SECRETARY SIGNATURE 	DATE 7/26/13
AGENCY SECRETARY <sup>1</sup> APPROVAL/CONCURRENCE 	DATE 7/29/13
DEPARTMENT OF FINANCE <sup>2</sup> APPROVAL/CONCURRENCE 	PROGRAM BUDGET MANAGER DATE 8/5/13

1. The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
2. Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.

## **Attachment 1 to the Economic and Fiscal Impact Statement (STD. 399): Regulatory Policies Contained in the Delta Plan**

This document supplements Standard Form (STD.) 399 for the Delta Plan regulations by providing additional information for answers provided on the form. If the answer provided on STD. 399 is complete and self-explanatory, the response is not repeated in this attachment. The alphanumeric references below (for example, A.2) refer to relevant responses on STD. 399 for which this attachment provides elaboration. Throughout, the Delta Stewardship Council is hereafter referred to as "Council."

The following general approach is used for costs and related impacts at the local level: (1) costs incurred by local agencies are described in the Fiscal Impact Statement, Section A; (2) costs incurred by private businesses and individuals are described in the Economic Impact Statement; (3) costs incurred by State or local agencies that might be passed on to private businesses and individuals (through assessments, rates, fees, or other charges) are described in the Economic Impact Statement; (4) costs to local agencies that are expected to be recovered through assessments, rates, fees, or other charges are shown in both Section B of the Economic Impact Statement and Section A of the Fiscal Impact Statement, but are *not* counted twice in the total statewide cost shown in Section D of the Economic Impact Statement; and (5) costs incurred by the State of California to review consistency appeals are included in the Fiscal Impact Statement, Section B.

### **ECONOMIC IMPACT STATEMENT**

A separate report, "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013), contains more detailed discussion of the economic impacts and benefits of the Delta Plan regulations.

#### **A. Estimated Private Sector Cost Impacts**

##### **A.2. Total number and types of businesses impacted and the number or percentage of total businesses impacted that are small businesses**

Delta Plan policies and administrative requirements apply to State and local agencies. Private businesses and individuals are not directly affected by costs of Delta Plan policies or administrative requirements. However, private businesses and individuals could be affected indirectly in two ways. First, private businesses or individuals directly involved in the proposed action may incur costs to make the action consistent with the Delta Plan. Second, costs to the State or local agency proposing a covered action could be passed on to specific private businesses and individuals through assessments, rates, fees, or other charges. Even without a specific proposed action, local agencies may incur additional costs to be consistent with Delta Plan policies in anticipation of future proposed actions. Here it is important to emphasize that *only changes* in costs should be assigned to the Delta Plan. Costs that agencies were planning to incur anyway (such as for preparing a water management plan, or to comply with existing local or state planning requirements) have not been included in this impact analysis.

The costs of actions taken to comply with Delta Plan policies will be unique to the details of a covered action and cannot be known in advance. The potential range of agency costs for consistency compliance is estimated in the Fiscal Impact Statement, but the portion that is passed to private business or individuals through assessments, rates, fees, or other charges will vary by agency and is unknown. Therefore, the total cost of Delta Plan policies to private business or individuals is unknown, and the total number and type of businesses impacted, including small business, is also unknown. Nevertheless, the Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013), provides estimates based on available data and reasonable and defined assumptions, and those estimates are included in the total range of costs shown in items B.1.d and D.2.

*A.3. Number of businesses created or eliminated, and*

*A.5. Number of jobs created or eliminated and the types of jobs or occupations impacted*

The number of businesses and jobs created or eliminated is uncertain. Delta Plan policies are expected to provide long-term benefits in protecting agriculture, restoring the Delta ecosystem, improving water supply reliability, maintaining and enhancing settings for outdoor recreation and tourism in the Delta, and improving flood protection. These benefits will be spread through much of the state and will improve the state's long-term outlook for business and jobs, improving its ability to maintain and attract business and a skilled workforce. Costs are project- and agency-specific, and therefore unknown under A.2). The effect on the number of businesses impacted cannot be estimated (see information above under A.2). The effect on jobs as a result of additional local agency costs is uncertain because the agency could redirect some of its spending toward consistency and compliance and potentially away from other activities. Such costs recovered through fees, assessments, or charges could reduce other spending by businesses and individuals affected. On balance the net effects to the State are uncertain but could be positive. Further discussion of potential effects on jobs is provided in the "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013).

*A.6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?*

Delta Plan policies are expected to provide long-term benefits in protecting agriculture, restoring the Delta ecosystem, improving water supply reliability, maintaining and enhancing settings for outdoor recreation and tourism in the Delta, and improving flood protection. The benefits would improve the ability of California businesses to compete, reducing costs to produce goods and services by reducing the potential cost to business from water supply shortages. In the past, significant business related costs have occurred in California during water supply shortage conditions (DWR 1994). Business costs increase not only due to interrupted production but also for water use reduction measures and recycling efforts implemented when facing an uncertain water supply future (CUWA 1991). While the estimated reduction in business costs to produce goods and services is unknown, it is anticipated that this benefit could outweigh the indirect cost of assessments, rates, fees, or other charges used to recover the cost of certification of a proposed covered action and the steps necessary for a covered action to comply with Delta Plan policies.

**B. Estimated Costs**

*B.1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? and*

*B.2. If multiple industries are impacted, what is the share for each industry?*

The total annual statewide dollar costs that businesses and individuals may incur to comply with this regulation range from \$5.8 to \$8.4 million. The "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013) contains the data and assumptions used to make this estimate. Even expressed as a range, the cost estimate is highly uncertain because the number, location, and character of projects requiring consistency certification are currently unknown. The annual ongoing cost or the type of industries impacted will depend on the mix of cost recovery mechanisms that State or local agencies might use. Costs recovered through broad-based water or wastewater rates, or through flood control or stormwater assessments, would be spread across a wide range of businesses and industries. Costs more directly tied to land use decisions, such as local agency planning costs recovered through permit fees or costs to modify a covered land use action, would likely fall on land-based industries such as residential and commercial development.

Neither the magnitude nor the share of such costs can be estimated by industry with any precision for the same reasons the number of businesses impacted cannot be estimated. See information above under A.2.

#### *B.4. Will this regulation directly impact housing costs?*

No significant direct impacts on housing costs are likely to occur from implementation of Delta Plan policies. Some small rural developments (less than five to ten units) could incur costs that the developer would try to pass onto buyers of the housing. In the context of the overall housing market in California or the Delta region, such costs would be restricted to a very small number of housing units. Beyond any direct effects on housing costs, the benefits and indirect costs of Delta Plan policies can have complex and counteracting effects on housing prices. Some costs of Delta Plan policies not related to housing development per se may be passed on, at least in part, to property owners and buyers. The benefits of improved flood protection and ecosystem amenities could increase property value of housing in and around the Delta, thereby increasing housing costs (note that this is fully offset by the benefit to existing owners of affected housing). Importantly, the Delta Plan policies are expected to provide substantial statewide and regional benefits to housing by increasing value due to improved flood protection, water supply reliability, and environmental amenities. Further discussion of housing cost effects is provided in the "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013).

#### *B.5. Explain the need for State regulation given the existence or absence of Federal regulations*

Under the authority of the Delta Reform Act, Water Code §85001 through §85308, the Council proposes this regulation to implement its policy actions contained in the Delta Plan to achieve the coequal goals and associated objectives. The Delta Plan relies heavily on existing State and federal regulations. For example, Delta Plan policies were developed and designed to be consistent with and complement the federal and California Endangered Species Acts, the federal Clean Water Act (in particular section 404), and the National Flood Insurance Program.

While recognizing existing State and federal rules, the proposed regulation provides the means to enforce Delta Plan policies. The regulation requires certifications of consistency (Article 2) and compliance with policies contained in the Delta Plan (Article 3) to implement the legislative intent of providing for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, a more reliable water supply for the state, protecting and enhancing the quality of water supply from the Delta, and addressing the historical problem of ineffective governance.

### C. Estimated Benefits

#### *C.1. Benefit Summary*

The Delta Plan establishes regulatory policies that address current and future ecological, flood management, and water supply reliability challenges. Fundamentally, the Delta Plan seeks to arrest (and ultimately improve) declining water supply reliability and environmental conditions related to the Delta ecosystem, reduce flood risk, as well as increase recreation opportunities in the Delta and protect Delta legacy culture. Benefits will accrue within the Delta, to all areas relying on the Delta for water supply reliability, and to the economic conditions of the State as a whole. The report "Cost Analysis for Proposed Delta Plan Regulation" (Delta Stewardship Council, 2013) discusses these benefits that are expected to occur as a result of adopting the Delta Plan policies.

### D. Alternatives to the Regulation

#### *D.1. List alternatives considered and describe them.*

Alternative approaches to individual policies were considered by the Council over the course of the Delta Plan development. Numerous drafts were prepared and hundreds of comments and suggestions from stakeholders and the public were provided and considered. Alternative approaches for fourteen proposed policies are summarized in the Initial Statement of Reasons (Delta Stewardship Council, 2012). The specific alternative approach and the reasons they were not preferred are specific to the different policies. In general, reasons for selecting the proposed policy include:

- The proposed policy is clearly required by the Delta Reform Act.
- Other approach does not adequately meet coequal goals.
- Other approach is infeasible or impractical.
- Other approach is inconsistent with existing law, regulation, or policy.
- Other approach is too costly or burdensome for the regulated entities.
- Other approach could have unacceptable environmental or economic impacts.

In addition, a Draft Program Environmental Impact Report (Draft PEIR) was prepared by the Council as the Project proponent and State lead agency under the California Environmental Quality Act (CEQA). In response to comments, a revised Delta Plan was developed and evaluated as the Revised Project in the Recirculated Draft PEIR.

The Draft PEIR evaluated a range of alternatives to the Revised Project. The alternatives were developed based on information collected during the CEQA scoping process and during development of eight drafts of the Delta Plan. In accordance with CEQA Guidelines, the range of reasonable alternatives was developed and evaluated for the extent and feasibility of attaining most of the basic objectives of the Proposed Project and avoiding or substantially lessening any of the significant effects of the project. Alternatives were:

1. Less aggressive approach to increase local and regional water supplies and reduce reliance on Delta water supplies. Emphasis on consideration of benefits relative to costs.
2. Less aggressive approach to increase local and regional water supplies and reduce reliance on Delta water supplies. Emphasis on a phased approach.
3. More aggressive approach to increase local and regional water supplies, reduce reliance on Delta water supplies, and develop water quality and flow objectives to support public trust resources. Emphasis on a phased approach to ecosystem restoration and eliminating land uses that could increase the risk to human life due to levee failure.
4. Less aggressive approach to regional water balances for users within the Delta and Suisun Marsh. Emphasis on ecosystem restoration on publicly owned lands and minimizing major developments in flood risk areas.

*D.2. Summarize the total statewide costs and benefits from this regulation and each alternative considered, and*

*D.3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives.*

An example range of total statewide dollar costs from this regulation is described in the accompanying document "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013). The example cost range includes costs to State and local agencies to establish and certify consistency with Delta Plan policies, plus costs for the Delta Stewardship Council to manage the process of consistency certification. The estimated range of annual cost is \$6.2 to \$8.9 million. This example range is highly uncertain, particularly for costs borne by State and local agencies. It will depend on the number, location, and characteristics of covered actions proposed, and these are not known at this time. Most or all of the costs to State and local agencies to certify covered actions are expected to be passed on to private businesses and individuals in the form of assessments, rates, fees, or other charges.

Implementation of Delta Plan policies are expected to result in substantial benefits to the state resulting from changes in water supply reliability, ecosystem restoration, and flood risk. Some of those benefits will accrue to the particular agency, individuals, and businesses directly involved in a covered action, but others throughout the state will also benefit. These broad ranging private and public benefits were not quantified due to uncertainty in the project-related and statewide effects of Delta Plan regulations and the difficulty in quantifying public benefits in dollar terms.

*D4. Were performance standards considered to lower compliance costs?*

Rulemaking law requires agencies to consider performance standards as an alternative if a regulation mandates the use of specific technologies or equipment, or if it prescribes specific actions or procedures. The proposed regulation includes both the consistency certification process and the Delta Plan policies. The consistency certification process was defined in Part 3, Chapter 3 of the Delta Reform Act (Water Code section 85225 et seq.). Therefore, the proposed regulation did not have the flexibility to replace that process with performance standards.

The Delta Plan policies embodied in the proposed regulation do not mandate specific technologies or equipment. Many policies are stated as items to be studied or considered by State or local agencies. Other policies define or restrict construction standards, locations, elevations, flood protection standards, and other characteristics of some activities in the Delta. These were generally incorporated to be consistent with existing planning processes and standards of other agencies. For example, ecosystem restoration must be carried out consistent with the California Department of Fish and Wildlife's "Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions." Even in these cases, the proposed regulation usually provides some flexibility through mitigation or consultation. Exceptions are also provided in some cases to accommodate existing economic uses in the Delta.

All of the policies were developed through an extensive public process during which many alternatives were suggested and discussed. Alternatives included some that were more prescriptive and potentially burdensome and some that were less so. The range was embodied in a set of formal alternatives that were analyzed in the Draft PEIR. The Council considered all of these and selected the policies that it believes achieve flexibility and cost-effectiveness while meeting the goals and mandates of the Act.

**E. Major Regulations**

*E.1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?*

Estimated direct costs of this regulation to California business enterprises are not expected to exceed \$10 million. The portion of total costs that could be passed on through assessments, rates, fees, or other charges to private businesses and individuals is \$5.8 to \$8.4 million per year, although only a portion of this would fall on business enterprises. Also, private entities whose projects are part of a covered action may be required or encouraged by the State or local lead agency to modify features of the projects to be consistent with the Delta Plan, at some additional cost.

*E.2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed*

See discussion of alternatives under D.1 above. All of the policies were developed through an extensive public process during which many alternatives were suggested and discussed for individual policies. The range was also embodied in a set of formal alternatives that were analyzed in the Draft PEIR. The Council considered all of these and selected the proposed action that it believes achieves flexibility and cost-effectiveness while meeting the goals and mandates of the Act.

No alternatives were identified that were judged by the Council to be equally as effective as the proposed policy or policies. Relative cost was an important consideration in the Council's deliberations, but no formal cost effectiveness analysis was performed.

*E.3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio*

See discussion under E.1. above.

## FISCAL IMPACT STATEMENT

### A. Fiscal Effect on Local Government

#### A.6

See E.1. above for cost estimate. Council staff has compiled information demonstrating the authorities that cities, counties, and special districts have to recover these costs through assessments, rates, fees, or other charges. Two categories of authority are described: (1) the ability to include incremental costs of a covered action within its construction planning and permitting budget, recoverable through assessments to beneficiaries of the covered action; and (2) the ability to recover additional planning and operational costs through assessments, rates, fees, or other charges. The report "Cost Analysis for Proposed Delta Plan Regulations" (Delta Stewardship Council, 2013) provides a detailed discussion that includes the existing legal authorities.

Some costs to State and local agencies may be recoverable through fees or charges, but some State and local agencies may have or be able to exercise authority to recover costs in this way. Therefore, some portion of the estimated annual cost could be State mandated and eligible for reimbursement. Uncertainty about future projects and the wide variety of cost recovery mechanisms make a firm estimate of State reimbursement impossible to forecast. In the event, however, that any agency does not have or is unable to exercise such authority, Section 41 of the Delta Reform Act provides for the Commission on State Mandates to determine costs mandated by the state and for reimbursement to local agencies pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Local and State agencies that propose covered actions will bear costs of consistency certification and may bear incremental costs to comply with some Delta Plan policies in order to demonstrate consistency. The categories of potential costs described for local agencies would be the same for State agencies that propose covered actions. Therefore, the total cost range shown in Section A of the Fiscal Impact Statement includes costs to both State and local lead agencies. At this time there is no way to ascertain how the cost might be split. Table 1 provides a summary of the potential incremental cost to a local or state agency. Note that the costs per covered action shown in this table only apply for policies that are applicable to a specific covered action. So, for example the incremental cost for policy §5008 would only apply for covered actions that were levee projects within designated areas. A range of ten to twenty-five covered actions per year was used to calculate the total annual cost range. "Cost Analysis for Proposed Delta Plan Regulations" discusses in detail the information and assumptions used to estimate local and state costs associated with Delta Plan policies.

TABLE 1

#### **Delta Plan Policies with Local and State Fiscal Impacts**

*Attachment 1 to the Economic and Fiscal Impact Statement (STD. 399): Implementation of Policies and Procedures of the Delta Plan*

<b>Delta Plan Policy</b>	<b>Incremental Costs (per Covered Action)</b>
§5002: Contents of Certifications of Consistency	State and local agency filing costs of \$6,100 to \$23,100; adaptive management reporting and implementation costs of \$600 to \$8,000 and 4 percent of total project costs, respectively; and \$1,800 to \$5,600 for the appeals process
§5003: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance	\$2,000 to document expected outcome on Delta reliance
§5008: Expand Floodplains and Riparian Habitat in Levee Projects	Up to 20 percent increase in planning costs
§5011: Respect Local Land Use When Siting Water or Flood Facilities	\$4,000/covered action to address conflict with adjacent land use and mitigation with considerable additional cost to a lead agency if significant

TABLE 1

**Delta Plan Policies with Local and State Fiscal Impacts**

*Attachment 1 to the Economic and Fiscal Impact Statement (STD. 399): Implementation of Policies and Procedures of the Delta Plan*

<b>Delta Plan Policy</b>	<b>Incremental Costs (per Covered Action)</b>
or Restoring Habitats	steps are taken during project implementation to avoid, reduce, or mitigate conflicts with existing or planned land use.
§5013: Require Flood Protection for Residential Development in Rural Areas	Minor additional cost to increase flood proofing protection; potential significant cost if levee improvements required
§5014: Floodway Protection	Additional costs in areas outside of regulated floodways to evaluate impacts of encroachments and develop mitigation at \$2,000 per encroachment.

Note: See "Cost Analysis for Proposed Delta Plan Regulations" for more a detailed description of local and state costs associated with all Delta Plan policies.

The fiscal effects of Delta Plan policies and administrative requirements to State and local agencies occur in two forms. First, administrative requirements on local and State agencies undertaking a covered action to prepare and file a Certification of Consistency require the preparation of a covered action record, which documents the process that the lead agency used to make its Certification of Consistency. The lead agency must also submit formal findings by the lead agency's governing board or management. The lead agency may also incur the costs of consulting with the Council prior to submitting a Certification of Consistency, submitting the covered action record, including additional analysis needed to address the concerns raised in the appeal, attend and provide testimony at the appeal hearing, and, if the Council upholds the appeal, modify and re-file the Certificate of Consistency.

Second, implementation of Delta Plan policies may result in costs to local or State agencies resulting from modifications to an agency's existing plans for covered actions to make them consistent, development of covered actions that are different than what the agency would have done in absence of the Delta Plan, and changes in water management plans and processes whether or not it has proposals for covered actions. State and local agencies may also incur administrative costs to monitor Council activities, attend meetings, and review documents and findings, but these costs are not strictly required in order to comply with the proposed regulation.

## B. Fiscal Effect on State Government

### B.4

§5002 of the proposed regulation, Contents of Certifications of Consistency, requires State and local agencies proposing to undertake a covered action to prepare and file a consistency determination with the Council. The Council's staff, in turn, will meet with the agency's staff to review the consistency of the proposed action and to make recommendations, as appropriate. Subsequent to the filing of a consistency determination with the Council, the Council is responsible for administering the appeal process. The total annual Council cost for §5002 in fiscal year 2013–14 is \$438,068. See the report "Cost Analysis for Proposed Delta Plan Regulations" for more detail on Council costs associated with §5002.

Additional outyear costs would include the costs identified for the fiscal year 2013–14 plus the costs to administer the science program for the Council's early consultation responsibility. The Council is currently developing the science plan called for in the Delta Plan through an involved stakeholders participation process. This process will determine how Delta projects can apply the best available science and adaptive management approach. The out year cost of the science program's early consultation is uncertain because it will depend on the level of assistance requested and on the size, number, and complexity of covered actions. A preliminary estimate of the annual cost range is \$181,500 to \$440,775

per year. The Council will determine a final best estimate and will include that cost in its future budget requests.

### C. Fiscal Effect on Federal Funding of State Programs

#### C.4

No federally funded programs were identified for which costs imposed by the proposed regulation might affect the availability or use of federal funds. It is possible that a program or project that either now receives or could in the future receive federal funds might incur costs to comply with the proposed Delta Plan regulation. Delta Plan policies are consistent with federal laws or regulations so it is not expected that the proposed regulation will impact eligibility for federal funds. Some potential or current projects may have limits on federal cost shares or limits on specific ways in which federal funds can be used. In such cases, consistency costs would fall on State and local agency participants.

#### *References*

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