Print Form | Reset Form

Instructions and Code Citations:
SAM Section 6601-6616

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME	CONTACT PERSON	EMAIL ADDRESS	TELEPHONE NUMBER
Delta Stewardship Council	Erin Mullin	Erin.Mullin@deltacouncil.ca.gov	916-902-6482

DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400	NOTICE FILE NUMBER
Proposed Amendments to California Code of Regulations, Title 23, Sections 5001 and 5012	Z

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 business 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
- [x] h. None of the above (Explain below):

See EFIA, Sections II.(B.) for discussion/analysis.

If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The Delta Stewardship Council (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:

- [x] Below $10 million
- [ ] Between $10 and $25 million
- [ ] Between $25 and $50 million
- [ ] Over $50 million *[If the economic impact is over $50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: EFIA Sec VIII. & V.

Describe the types of businesses (Include nonprofits): ______

Enter the number or percentage of total businesses impacted that are small businesses: ______

4. Enter the number of businesses that will be created: EFIA Sec VIII. & V. eliminated: EFIA Sec VIII. & V.

Explain: ______

5. Indicate the geographic extent of impacts:
- [ ] Statewide
- [x] Local or regional (List areas): Sacramento-San Joaquin Delta and Suisun Marsh

6. Enter the number of jobs created: N/A and eliminated: 2.1

Describe the types of jobs or occupations impacted: EFIA Sections V.(2.) and V.(3.)

7. 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
- [x] NO

If YES, explain briefly: ______

Print Form | Reset Form

Instructions and Code Citations: SAM Section 6601-6616

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

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? $ EFIA Sec II.(A.) & IV.

a. Initial costs for a small business: $ negligible Annual ongoing costs: $ negligible Years: N/A

b. Initial costs for a typical business: $ negligible Annual ongoing costs: $ negligible Years: N/A

c. Initial costs for an individual: $ negligible Annual ongoing costs: $ negligible Years: N/A

d. Describe other economic costs that may occur: Potential indirect economic cost of $212,700/year from expected change in levee failure risk (see EFIA Section II.(A.), II.(B.) and V.)

2. If multiple industries are impacted, enter the share of total costs for each industry: EFIA Section IV.

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.* $ EFIA Sect. IV.

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: $ ________

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: Features unique to California and the Delta that are not addressed in Federal regulations (see EFIA Section VIII.(B.5.))

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 of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Reduced risk of: (1) property/infrastructure damage, (2) loss of life, (3) disruption in Statewide supply, (4) harm to ecosystems and habitat, and (5) harm to "Delta as a Place" values. Benefits are non-monetized (see EFIA Sections III.(A.), III.(B.) and VIII.(C.1.))

2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: See EFIA Section II.(B.) and VIII.(C.2.)

3. What are the total statewide benefits from this regulation over its lifetime? $ EFIA VIII.(C.3.)

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: None identified

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: Five (5) Alternatives were considered including (1) no action, (2) repeal existing regulation, and three alternatives representing slightly different investment prioritization ((3) protection of life; (4) wetlands; and (5) water supply) (see EFIA Sections VII. and VIII.(D.))

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: $ Unknown Cost: $ <$213,000/yr

Alternative 1: Benefit: $ 0 Cost: $ 0

Alternative 2: Benefit: $ Unknown Cost: $ <$213,000/yr

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: Most benefits not monetized. Alternatives have approx. same cost/benefits (slightly different distribution). Alt 1 (no action) results in no costs/benefits (see EIRA Section VII. and VII.(D.2.))

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: The proposed regulation does not mandate the use of specific technologies or equipment, or prescribe specific actions or procedures (see EFIA Section VII. and VIII.(D.4.))

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises **exceed $10 million**? ☐ YES ☒ NO

If YES, complete E2. and E3
If NO, skip to E4

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: ______

Alternative 2: ______

(Attach additional pages for other alternatives)

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

Regulation: Total Cost $ ______ Cost-effectiveness ratio: $ ______

Alternative 1: Total Cost $ ______ Cost-effectiveness ratio: $ ______

Alternative 2: Total Cost $ ______ Cost-effectiveness ratio: $ ______

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: N/A

The incentive for innovation in products, materials or processes: N/A

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: Ensure levee investments are consistent with the Delta Levees Investment Strategy (see EFIA Section VIII.(D.))

Print Form | Reset Form

Instructions and Code Citations:
SAM Section 6601-6616

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE
ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)
STD. 399 (Rev. 10/2019)

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 in the current State Fiscal Year which are reimbursable by the State. (Approximate) (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ ____________________

☐ a. Funding provided in ____________________

Budget Act of ____________ or Chapter ____________ , Statutes of ____________

☐ b. Funding will be requested in the Governor's Budget Act of ____________________

Fiscal Year: ____________

☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate) (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

$ ____________________

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

☐ a. Implements the Federal mandate contained in ____________________

☐ b. Implements the court mandate set forth by the ____________________ Court.

Case of: ____________________ vs. ____________________

☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. ____________

Date of Election: ____________________

☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: ____________________

☐ e. Will be fully financed from the fees, revenue, etc. from: ____________________

Authorized by Section: ____________ 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;

☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in ____________________

☐ 3. Annual Savings. (approximate)

$ ____________________

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

☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

☐ 6. Other. Explain ____________________

Print Form Reset Form

Instructions and Code Citations:
SAM Section 6601-6616

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)

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 in the current State Fiscal Year. (Approximate)

$ Between 0 and $405,000

It is anticipated that State agencies will:

☒ a. Absorb these additional costs within their existing budgets and resources.

☐ b. Increase the currently authorized budget level for the ______ Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ 0.00

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☐ 4. Other. Explain ______

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 in the current State Fiscal Year. (Approximate)

$ ______

☐ 2. Savings in the current State Fiscal Year. (Approximate)

$ ______

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain ______

FISCAL OFFICER SIGNATURE	DATE
[signature]	8/16/2022

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 departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY	DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER	DATE

Appendix 1 EFIA

Economic and Fiscal Analysis

I. INTRODUCTION

The Delta Stewardship Council (Council) is proposing amendments to California Code of Regulations (CCR), Title 23, Waters, Division 6, Delta Stewardship Council, Chapter 2, Consistency with Regulatory Policies Contained in the Delta Plan, Article 1, Definitions, Section 5001, *Definitions* (Section 5001), and Delta Plan Article 3, Consistency with the Regulatory Policies Contained in the Delta Plan, Section 5012, *Prioritization of State Investments in Delta Levees and Risk Reduction* (Section 5012) (proposed amendments). Section 5001 and Section 5012, adopted in 2013, respectively specified definitions and interim guidelines for prioritization of State of California (State) investments in Delta levee improvements. The amended regulation would replace the interim guidelines set forth in the current Section 5012 and the amended language would be consistent with that approved by the Council for purposes of rulemaking on August 26, 2021, in Resolution 2021-02[1]. Proposed changes to Section 5001 and Section 5012 relevant to the EFIA are summarized below.

II. SUMMARY OF PROPOSED AMENDMENTS

A. Overview

This section summarizes the key components of the proposed amendments that could result in fiscal or economic impacts quantified in the EFIA. Additional details about the proposed amendment can be found in the main body of the Initial Statement of Reasons (ISOR). The proposed amendment to Section 5012 would encourage State investments in Delta levee improvements that are consistent with the Delta Levees Investment Strategy (DLIS) priorities, while Section 5001 supports Section 5012 by providing definitions for activities identified in Section 5012, in addition to defining Very-High, High, and Other islands and tracts. The EFIA describes the purpose, data, methods, and results of the economic and fiscal impact analysis and summarizes the findings of the economic and fiscal analysis for relevant sections of the STD 399.

Water Code section 85306 requires the Delta Plan to include priorities for state investments in levee operation, maintenance, and improvements in the Delta. To implement Water Code section 85306 and guide discretionary State investments prior to the completion and adoption of the updated priorities developed pursuant to Water Code section 85306 (which are included in this amendment), the Council adopted Delta Plan Policy RR P1, Prioritization of State Investments in Delta Levees and Risk Reduction, included in the 2013 Delta Plan and codified in Section 5012. Currently, Section 5012 sets forth priorities for State investment in Delta flood risk management. The fiscal and economic impacts associated with the current regulation (Section 5012 and other sections related to regulatory policies included in the Delta Plan) were described in a fiscal and economic analysis report, hereafter referred to as “2012 Cost Analysis”[2]. As described in the 2012 Cost Analysis, the current Section 5012 specifies a set of guidelines to maximize benefits from investments in Delta levee improvements pending additional analysis to quantify and prioritize those benefits (pursuant to Wat. Code § 85306). The 2012 Cost Analysis found that there were no additional fiscal or economic costs attributable to Section 5012 beyond those that were already calculated as part of broader consistency determination requirements for the Delta Plan. The DLIS quantifies and prioritizes many of the benefits from investments in Delta levee improvements. The proposed amendment to Section

5012 would replace the current Delta levee investment guidelines with the DLIS priorities, while Section 5001 would add five new definitions to support Section 5012. The proposed amendments would not affect the total amount of funds available for Delta levee improvements.

The proposed amendments would modify the existing regulations by requiring future discretionary State investments in Delta levees to be consistent with the priorities defined (Very-High Priority, High Priority, and Other Priority islands or tracts), determined by the DLIS.[3] Under the proposed amendments the California Department of Water Resources (DWR) would fund levee improvement projects at Very-High Priority islands or tracts before approving levee improvement projects at High Priority or Other Priority islands or tracts. However, if there are no proposed levee improvement projects on Very-High Priority islands or tracts for a given grant cycle, then DWR can fund levee improvement projects for High Priority islands or tracts (and Other Priority islands or tracts, if there are no proposed levee improvement projects for High Priority islands or tracts). In addition, the proposed amendment would require DWR to prepare an annual report to the Council, identifying its decisions to award State funds for Delta levee operation, maintenance, repair, rehabilitation, replacement, and improvement projects and include specific information in the report. If funding awards for levee improvement projects vary from the DLIS priorities, DWR would be required to identify how the funding is inconsistent with the priorities; describe why variation from the priorities is necessary; and explain how the funding nevertheless protects lives, property, or other State interests, such as infrastructure, agriculture, water supply reliability, Delta ecosystem, or Delta communities.

As described throughout this report, the anticipated economic impacts (costs and savings) associated with the proposed amendments is small. However, the economic analysis of impacts on businesses and individuals was conducted using a conservative methodology, outlined in Section II.B. to identify prospective costs and benefits. Applying this conservative methodology does identify a potential for negligible economic impacts. The reallocation of Delta levee improvement investments could cause some economic impacts by redistributing the timing of costs and benefits that are a result of Delta levee investment across Delta islands or tracts. However, these economic impacts would be prospective because while the proposed amendments may affect the timing (order) of future expenditures on Delta levee improvements, they would not affect the total magnitude of such investments and would allow DWR to vary levee investments from the established priorities under certain conditions. The EFIA quantifies these prospective economic impacts.

The proposed amendments would create fiscal costs to State agencies by the preparation of an annual report by DWR to submit to the Council. DWR would incur additional fiscal costs to prepare the annual reports and the Council would incur fiscal costs by reviewing annual reports and coordinating with DWR. Local agencies would not be directly affected by the DLIS prioritization and would not incur any fiscal costs beyond current requirements. The proposed amendments would not change local funding or revenue sources for Delta levee improvements. Local agencies would continue to assess fees and taxes and would still be eligible for funding for Delta levee improvements. The EFIA quantifies the fiscal costs of the proposed amendment.

The proposed amendments would result in both quantifiable and unquantifiable (i.e., non-monetized) costs and benefits. The analysis provides a qualitative discussion and quantitative estimates of the following economic and fiscal impacts:

1. Direct benefits that accrue to businesses and individuals that could realize an increase in State investments in levee improvements.
2. Direct costs that accrue to businesses and individuals that could realize a decrease in State investments in levee improvements.
3. Indirect economic impacts to businesses and individuals that are related to the direct costs or benefits.
4. Fiscal costs to DWR from annual reporting, identifying variations from the DLIS priorities, and describing how variations are consistent with the goals of the Delta Plan.
5. Fiscal costs that the Council would incur when reviewing annual reports prepared by DWR.

The proposed amendment to Section 5001 would add five new definitions. No direct or indirect economic or fiscal impacts to businesses, individuals, local agencies, or state agencies from incorporating these definitions into Section 5001 and other minor formatting edits to Section 5001 were identified. Any economic or fiscal impacts related to these definitions would be caused by proposed amendments to Section 5012, where these terms are applied, as explained herein.

B. Economic and Fiscal Impact Analysis Methodology

The economic impact analysis uses data from the DLIS, DWR Project Solicitation Package (PSP) grant programs, and other publicly available reports, identified in the "Citations" section of this document. The fundamental logic of the economic impact analysis is as follows. State investment in levee improvements is inversely related to the probability of levee failure (from combined hydraulic and seismic risks). In the near-term, the proposed amendments could decrease State expenditures on High Priority or Other Priority islands or tracts and increase State expenditures on Very-High Priority islands or tracts, but the total funding is unchanged. As levee expenditures increase the probability of levee failure decreases and expected annual damages from flooding decrease. Conversely if levee expenditures decrease, the probability of failure increases, and expected annual damages from flooding increase. The expected annual damages from flooding can be capitalized into Delta island or tract land values, which is an indirect benefit or cost of the proposed amendment (depending on if the island or tract sees an increase or decrease in levee expenditures). It follows that the quantifiable economic impact of the proposed amendment is equal to the prospective change in land values on islands or tracts that realize an increase (benefit) or decrease (cost) in State levee investment expenditures.

The approach for the economic impact analysis involves the following steps:

1. Quantify the probabilistic relationship between expenditures on Delta island or tract investments and the probability of levee failure using the DLIS data.

2. Identify recent State investments in Delta levee improvements by island or tract and classify those investments according to the DLIS priorities (Very-High Priority, High Priority, or Other Priority islands or tracts).
3. Estimate the maximum quantifiable economic impact (benefits or costs) by reallocating recent investments in Delta levee improvements identified in (2) according to the DLIS priorities and quantify the resulting change in the probability of levee failure, using the relationship calculated in (1).
4. Calculate the economic impact (costs or benefits) as the prospective capitalized land value of the change in levee failure probability under (3), multiplied by the expected annual cost of a levee failure.
5. Calculate any quantifiable indirect effects resulting from the direct changes calculated under (4), applying a standard input-output model of Delta counties.
6. Describe any unquantifiable (non-monetized) costs or benefits.

The fiscal impact analysis applies the same approach:

6. Estimate the direct fiscal cost of DWR staff time for preparing annual reports, general consultation with the Council, preparing justifications for variations from the DLIS, and reviewing any such justifications with the Council.
7. Estimate the direct fiscal cost of Council staff time for annual reviews of DWR reports, general consultations with DWR, and reviews of variations from the DLIS.

All values in this report, unless otherwise noted, are at 2021 price levels, using the Gross Domestic Product Implicit Price Deflator (GDP-IPD).[4] The following sections summarize the estimated fiscal and economic impacts of the proposed amendment.

The analysis in this report identifies potential benefits and costs both quantitatively and qualitatively. The quantitative analysis indicates that the range of potential costs associated with the proposed regulations is so small as to be considered negligible. However, a conservative analysis was performed to illustrate what prospective costs may occur. The DLIS risk analysis of quantifiable expected annual damages was used to estimate the change in levee failure risk per dollar invested in levee improvements. Data summarized in Table 5-3 of the DLIS Final Report[5] were used to calculate the capital cost to improve selected levees from baseline conditions to standards established under Public Law 84-99, Rehabilitation Assistance for Non-Federal Flood Control Projects (PL 84-99). The analysis conservatively used the higher construction cost range shown in the DLIS ($1.7 million per mile). These data were merged with data from Table 5-5 of the DLIS Final Report showing flooding probability and expected annual damages under baseline conditions (no additional investment), and flooding probability and expected annual damages if levees were improved to PL 84-99 standards. A constant repair cost of $27.6 million per levee failure was applied based on estimates described in the DLIS Risk Analysis Methodology Report.[6]

The expected change in land value per dollar investment in levee improvement, by island or tract, was analyzed using the data described above. The benefit of improving a representative levee from baseline conditions to PL 84-99 standards was calculated as the corresponding reduction of the expected annual damages and in expected annual repair cost. This amount was then divided by the capital cost of improving the subject levee to PL 84-99 standards. The result was the change in expected annual damages and avoided repair costs (costs) per dollar of levee investment. This information was calculated for a subset of 16 islands or tracts for which data were available. Data were limited to islands or tracts with levees that would benefit from being upgraded to PL 84-99 standards. The economic analysis based on these data is representative of the type and magnitude of economic impacts that could be expected throughout the Delta.

The next step in the analysis calculated total recent historical expenditures on Delta levee improvements that would be covered by the proposed amendment. As described by the Delta Protection Commission (DPC) in the *Delta Flood Risk Management Assessment District Feasibility Study and Delta Levee Financing Options Report*,[7] gathering comprehensive data describing Delta levee investments, by agency, by island or tract, by funding source is generally not feasible. In general, funding for Delta levee improvements comes from State, federal, and local partners from local fees, state bonds, and various cost-sharing arrangements. It was not possible to identify a complete historical inventory of expenditures on levee improvements by island or tract. Therefore, this analysis used the Delta Special Flood Control Projects Program (PSP)[8] reported project expenditures, by island or tract, between 2008 and 2015 to illustrate the recent distribution of State expenditures on Delta levee improvements that could be affected by the proposed amendments. This is not intended to be a complete inventory of investments in Delta levee improvements; rather, it is a partial accounting based on the best available data used to demonstrate a plausible range of prospective economic costs. Total State expenditures on levee improvements included in this analysis equal $75 million in nominal terms. After converting these past costs to current dollars using the gross domestic product Implicit Price Deflator (GDP-IPD)[9], the total expenditures equal $86.1 million.

State expenditures were inventoried by island or tract, and each island or tract was ranked based on its DLIS priority. Of the $86.1 million expenditures used in this analysis, approximately $13.3 million (15.4%) in State funding was allocated to levee improvements on Other Priority islands or tracts, $7.1 million (8.3%) to levee improvements on High Priority islands or tracts, and $65.7 million (76.3%) to levee improvements on Very-High Priority islands or tracts. Therefore, the proposed amendment could affect the ongoing allocation of approximately $20.4 million in State expenditures on levee improvements on Other Priority or High Priority islands or tracts that occurred over the seven-year period from 2008 to 2015. Expenditures on Very-High Priority islands or tracts would not be affected.

For this analysis, all expenditures allocated to Other Priority or High Priority islands, or tracts were conservatively assumed to be reallocated to Very-High Priority islands or tracts. That is, this analysis illustrates the economic impact of reallocating all $20.4 million invested in levee improvements on High Priority or Other Priority islands or tracts to Very-High Priority islands or tracts. In practice, DWR's funding decisions are subject to its consideration of the benefits, costs, engineering considerations and other factors such that DWR has discretion to fund proposed levee improvement projects for Other Priority or High Priority islands or tracts. If there are no proposed levee improvement projects on Very-High Priority islands or tracts for a given grant cycle, then DWR can fund levee improvement projects for High Priority islands or tracts (and for Other Priority islands or tracts if there are no proposed projects for High Priority islands or tracts). Therefore, this was a conservative analysis to demonstrate potential economic impacts of the proposed amendment if all levee improvement funds were reallocated.

Using the method and data described above, each dollar invested in levee improvements on High Priority or Other Priority islands or tracts that are included in this analysis reduces expected annual damages (EAD) by approximately $0.156 (that is, provides an expected benefit of $0.156). Therefore, reducing levee improvement expenditures on High Priority or Other Priority islands or tracts by $20.4 million would reduce benefits to those islands or tracts by $3.18 million. This loss is largely offset by benefits realized on other islands or tracts. Every dollar invested in levee improvements on Very-High Priority islands or tracts included in the analysis reduces EAD by (provides a benefit of) $0.083. Therefore, increasing expenditures by $20.4 million on Very-High Priority islands or tracts would increase benefits to those islands or tracts by $1.69 million. It follows that the net quantifiable economic cost equals $1.49 million. On an average annual basis, the net quantifiable economic cost, in terms of EAD, equals $212,700 per year. Too put this number in perspective, with around 530,000 acres in agriculture in the Delta, this represents about $0.4 per acre in agricultural production.[10]

Prospective changes in EAD could be capitalized into Delta island or tract land values. Using an interest rate of 5.5%, consistent with current private lending rates, an average annual increase in EAD of $212,700 would cause a reduction of approximately $3,900,000 in capitalized land values over the geographic area of the Delta. We refer to this as "negligible" in the context of a proportion of the total land value in the geographic area of Delta. Therefore, the quantifiable net present value economic cost of reallocating $20.4 million from High Priority or Other Priority islands or tracts to Very-High Priority islands or tracts is approximately $3,900,000. This analysis assumes that expenditures would be spread uniformly across all Very-High Priority islands or tracts. If expenditures are targeted to Very-High Priority islands or tracts that provide the greatest economic return (largest reduction in EAD per dollar levee investment), then the proposed amendment would provide a quantifiable net economic benefit rather than an economic cost. Note, again, that total levee improvement expenditures are unchanged. All costs are prospective and do not reflect actual outcomes.

C. Major Regulation Determination

The proposed amendments are not major regulations. The Council determined that the estimated economic impact to business enterprises and individuals located in or doing business in California of the proposed amendment is less than $50 million in any 12-month period, which is less than the threshold for a Major Regulation (Govt. Code, Section 11342.548).

III. BENEFITS

A. Benefits to California

The proposed amendments to Sections 5001 and 5012 would provide economic benefits by prioritizing levee improvement expenditures to islands or tracts that would realize the greatest benefit to State interests, as identified in the DLIS. The DLIS priorities were developed based on an analysis of quantified and unquantified costs and benefits, and a public review process to solicit feedback and refine the final prioritization. The proposed amendments improve Delta island or tract resiliency by effectively targeting investments to the islands or tracts that provide the greatest benefits toward achieving the coequal goals. (Wat. Code, Section 85054). This is expected to result in benefits to State and local public agencies or private individuals and businesses in the State from improvements in water supply reliability, ecosystem restoration, flood risk reduction, and land use policies. The proposed amendments would increase these benefits by ensuring that levee improvement investments provide the greatest return to the State. The DLIS does not set the amount of expenditure for levee improvement (i.e., the cost); rather, it sets priorities for how a given level of expenditure should be allocated based on benefits that generally fall into the following categories:

1. Health and welfare of California residents and individuals

The proposed amendments would reduce risk to people, property, and infrastructure, including reduced cost to repair failed levees. The proposed amendments would direct levee improvement funds to the Delta islands and tracts with greatest risk to people, property, and infrastructure, thereby reducing overall flood risk in the Delta over time. According to the DLIS analysis, 80% of the Delta's expected annual damages (EAD) from flooding are on islands or tracts included in the areas the proposed amendments would prioritize for levee investments (representing 19 out of 142 islands and tracts). The proposed amendment would also provide monetized benefits to islands or tracts that realize a reduction in EAD. Such benefits would equal $1.69 million or approximately $212,700 per year. However, these benefits are prospective and do not reflect actual outcomes.

Similarly, 90% of the anticipated flood fatalities in the Delta also occur on the Delta islands and tracts the proposed amendments would prioritize for levee investments based on their critical role in public safety (representing 17 out of 142 islands and tracts).

The proposed amendments would prioritize islands and tracts that currently have less than 200-year flood protection and provide a water supply function. A water supply function is defined as an island or tract that is critical to freshwater conveyance through the Delta, an island or tract that contains a regional water infrastructure facility, or an island or tract that acts as a barrier to salinity intrusion into the Delta (representing 23 out of 142 islands and tracts).

2. Worker safety

The proposed amendment would prioritize population centers and areas with damageable property. As stated in Section III.A.1, 90% of the anticipated flood fatalities in the Delta also occur on the Delta islands and tracts the proposed amendments would prioritize for levee investments based on their critical role in public safety (representing 17 out of 142 islands and tracts), and 80% of the Delta's expected annual damages (EAD) from flooding are on islands or tracts included in the areas the proposed amendments would prioritize for levee investments (representing 19 out of 142 islands and tracts). These islands and tracts combined represent the largest concentration of the in-Delta workforce. By prioritizing EAD, and expected annual fatalities (EAF), the proposed amendment also prioritizes workers safety.

3. Benefits to the State's environment

The proposed amendments seek to protect high-value non-tidal habitat (habitat protected from flooding by levees) and islands and tracts that contribute to the cultural, recreational, natural resource, and agricultural qualities that distinguish the Delta and Suisun Marsh ("Delta as a Place" benefits). High-value, non-tidal habitat includes areas of non-tidal marsh, managed marsh, riparian forest and scrub, vernal pools, and alkaline seasonal wetlands. The proposed amendments would prioritize levee improvement funding on islands and tracts that have approximately 89 acres of habitat per year at risk of flooding. Islands and tracts providing "Delta as a Place" benefits contain public roadways, prime farmland, and Delta legacy communities (representing 48 of 142 islands and tracts).

4. Improving transparency and public awareness of State levee funding decisions

The proposed amendments would create a reporting structure and forum for public discourse regarding State funding decisions in Delta levee improvements. The proposed amendments would require DWR to prepare a written report to the Council describing the prior year's levee improvement funding decisions, and to present that report at a Council meeting. The written report would be available to the public for review and comment. The proposed amendments would allow the Council to track and monitor the State's efforts to reduce Delta flood risk over time through targeted investments in levee improvements.

B. Benefits to California Businesses, Including Small Businesses

The proposed amendments would also provide monetized benefits to islands or tracts that realize a reduction in EAD. As described in Section II.(B.), such benefits would equal $1.69 million or approximately $242,000 per year. These benefits are included in the net costs described under Section IV. However, these benefits are prospective and do not reflect actual outcomes.

IV. COSTS

Any economic costs to related sectors of the economy (e.g., suppliers to farming operations) are indirect and likely to be negligible. Land is typically an asset and not a separate value-added economic activity that would affect other regional spending or businesses. A conservative approach to illustrate a potential economic cost was applied using the Impacts for Planning and Analysis (IMPLAN) model.[11] The decrease in capitalized land value ($3,900,000) was modeled as a decrease in land real estate commission sales for Delta counties using a commission rate of 6% (net decrease of $232,000). The implicit assumption here is that all land affected by the change in EAD would be sold, and that local real estate businesses would lose the commission income associated with the decrease in capitalized value. The multiplier of 1.47 implies a total change in gross output value of approximately $341,000.[12]

The total quantifiable cost of the proposed amendments equals $212,700 per year, or approximately $3,900,000 in net present value (Section II.(B)). This represents the prospective reduction in total land value calculated as the cost of increased EAD on islands and tracts in the

Delta. The proposed amendment could reallocate some Delta levee investments to higher priority islands or tracts.

However, this is an unlikely outcome based on a worst-case scenario assumption. This analysis assumes that the island or tract in the Other category would be disadvantaged in such a way that the land would lose value. In reality, islands and tracts in the Other category represent a lower risk to state interests; this could mean that the levees protecting the island or tract are sufficient to protect the people, property and state interests behind them and do not require further investment at this time. The proposed regulation anticipates that as levees are improved risk will decrease. As an island or tract's risk decreases, it will move to a lower priority category. Therefore, an island or tract has the potential for its land value to increase as its levees are improved and it moves to the Other category. The overall effects are likely to be small and therefore the resulting impact on jobs is likely to be negligible.

The direct fiscal cost of the proposed amendments falls on State agencies, not on businesses. Businesses could be affected indirectly through changes in landowner expenditures or real estate sales commission, but as stated above, this effect is likely negligible. Since the effect on general businesses is indirect and negligible, it follows that small businesses (using the consolidated definition of small business set forth in Cal. Gov. Code Section 11346.3(b)(4)(B)) would not be disproportionately affected or overly burdened by the proposed amendment. Since the proposed amendment would have an indirect and negligible effect on small businesses, the proposed amendments would not have a significant statewide adverse effect on the ability of those businesses to compete. Furthermore, the proposed amendments would not affect the creation of new businesses or elimination of existing businesses within the State. In addition, the proposed amendments would not affect the expansion of businesses currently doing business within the State.

The proposed amendments could result in a net indirect economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value) and any additional indirect economic effects are likely to be negligible (less than $232,000 over the analysis period, Section V.). The proposed amendments would not change the overall level of State investment in Delta levee improvements and would be unlikely to have any significant effect on individuals or businesses in the State. Since the proposed amendments would not change the total State investment in Delta levee improvements, they would be unlikely to have any effect on local fees, assessments, or rates for individuals or businesses.

The proposed amendments do not have any direct effect on housing costs. Changes in land values caused by the change in EAD could have a small indirect effect on housing costs by pushing down rental rates; however, given the small amount of change in land values anticipated, this effect is likely to be negligible. Therefore, there is no evidence that there would be an effect on housing costs.

V. ECONOMIC IMPACTS

1. Private individuals/ types of business entities impacted

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendments. The proposed amendments would not change the overall level of State investment in Delta levee improvements and are unlikely to have any significant, statewide adverse economic impacts directly affecting individuals or businesses in the State.

The economic analysis of impacts on businesses and individuals was conducted using a conservative methodology, outlined in Section II.(B.), to estimate prospective costs and benefits. Applying this conservative methodology does identify a potential for negligible economic impacts because of the proposed amendments on timing and distribution of Delta levee investments. The reallocation of Delta levee improvement investments could cause some economic impacts by redistributing the timing of costs and benefits that are a result of Delta levee investment across Delta islands or tracts. However, these economic impacts would be prospective because while the proposed amendments may affect the timing (order) of future expenditures on Delta levee improvements, they would not affect the total magnitude of such investments and would allow DWR to vary levee investments from the priorities under certain conditions.

The proposed amendment could result in an indirect net economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value). Any additional indirect economic effects are likely to also be less than $232,000 over the analysis period, as explained below in this Section. Since the proposed amendments would not change the total State investment in Delta levee improvements, they would be unlikely to have any effect on local fees, assessments, or rates for individuals or businesses.

Any economic costs to related sectors of the economy (e.g., suppliers to farming operations) are likely to be small. Land is typically an asset and not a separate value-added economic activity that would affect other regional spending or businesses. A decrease in land values could cause small economic impacts if landowners change spending habits as a result of this change in asset value, or through changes in commission for real estate transactions through lower commission from land sales. A conservative approach to illustrate a potential economic cost was applied using the Impacts for Planning and Analysis (IMPLAN) model.[13] The decrease in capitalized land value ($3,900,000) was modeled as a decrease in land real estate commission sales for Delta counties using a commission rate of 6% (net decrease of $232,000 over the total land value for the geographic area, therefore the term “negligible” is used). The multiplier of 1.47 implies a total change in gross output value of approximately $341,000.[14]

For the reasons described above, since the proposed amendments would have a negligible effect on small businesses, the proposed amendments would not have a significant statewide adverse effect on the ability of those businesses to compete. Furthermore, the proposed amendments would not affect the creation of new businesses or elimination of existing businesses within the State. In addition, the proposed amendments would not affect the expansion of businesses currently doing business within the State. Any economic costs to related sectors of the economy (e.g., suppliers to farming operations) are likely to be negligible and would not be direct costs.

In summary, the direct economic cost of the proposed amendments to businesses, jobs, and individuals is negligible because it could change the timing of State investment in Delta levees but would not change the overall level of investment. The direct economic cost would be a result of a change in the distribution of prospective benefits from levee improvement expenditures. The proposed amendments could cause indirect economic costs of up to $212,700 per year in EAD by affecting the timing and location of State investment in Delta levees. Because of the small magnitude of this prospective change, there would be no effect on housing costs. Expressing these annual costs in terms of the change in net present land value and including potential multiplier effects, the capitalized cost equals $4,200,000.

The proposed amendments would not require additional business reports or the use of specific technologies or equipment.

2. Creation of jobs within the state

The total quantifiable cost of the proposed amendments equals an indirect cost of $212,700 per year, or approximately $3,900,000 in net present value. This represents the prospective reduction in total land value calculated as the cost of increased EAD on islands and tracts in the Delta. The proposed amendments could reallocate some Delta levee investments to higher priority islands or tracts, but the total expenditure on Delta levee investments would not change. As a result, the proposed regulations are unlikely to create jobs within the state.

The change in land value does not directly affect jobs and does not cause any quantifiable indirect or induced economic effects that would significantly affect regional employment. Land is typically an asset and not a separate value-added economic activity that would affect regional employment. A decrease in land values could cause small economic impacts if landowners change spending habits as a result of this change in asset value, and through changes in commission for real estate transactions through lower commission from land sales. These effects are likely to be small and therefore the proposed regulations are unlikely to create jobs within the state.

In summary, the direct economic cost of the proposed amendments to businesses, jobs, and individuals is negligible because while the amendments could change the timing of State investment in Delta levees, they would not change the overall level of investment. The largest anticipated economic impact would be associated with potential changes in land value of islands and tracts. Therefore, the proposed regulations are unlikely to create jobs within the state.

3. Elimination of jobs within the state

The total quantifiable cost of the proposed amendments equals an indirect cost of $212,700 per year, or approximately $3,900,000 in net present value. This represents the prospective reduction in total land value calculated as the cost of increased EAD on islands and tracts in the Delta. While the proposed amendments could reallocate some Delta levee investments to higher priority islands or tracts, the total expenditure on Delta levee investments would not change.

The change in land value does not directly affect jobs and does not cause any quantifiable indirect or induced economic effects that would significantly affect regional employment. Land is typically an asset and not a separate value-added economic activity that would affect regional employment. A decrease in land values could cause small economic impacts if landowners change spending habits as a result of this change in asset value, and through changes in commission for real estate transactions through lower commission from land sales. This change is modeled as a reduction in NAICS 530210, real estate industries. The employment multiplier of 8.9 implies a reduction of 2.1 jobs over the analysis period. These effects are likely to be small and therefore the resulting impact on jobs is likely to be negligible.

A conservative approach to illustrate potential economic impacts was developed using the IMPLAN model. The decrease in capitalized land value ($3,900,000) was modeled as a decrease in land real estate commission sales for Delta counties using a commission rate of 6% (net decrease of $232,000 in real estate business income). The implicit assumption is that all land affected by the change in EAD would be sold, and that local real estate businesses would lose the commission income. This change is modeled as a reduction in North American Industry Classification System (NAICS) Impacts for Planning and Analysis (IMPLAN) model. The decrease in capitalized land value ($3,900,000) was modeled as a decrease in land real estate commission sales for Delta counties using a commission rate of 6% (net decrease of $232,000). The multiplier of 1.47 implies a total change in gross output value of approximately $341,000. Under this conservative assumption, the total net present value cost would be $4,200,000.

In summary, as explained above, the proposed regulations may result in a reduction of 2.1 jobs over the analysis period, due to a reduction in real estate commissions. However, the direct economic cost of the proposed amendments to businesses, jobs, and individuals is negligible because while they could change the timing of State investment in Delta levees, they would not change the overall level of investment.

4. Creation of new businesses within the state

The proposed amendments would not change the overall level of State investment in Delta levee improvements and would unlikely have any significant effect on individuals or businesses in the State. Therefore, the proposed regulations would not create new businesses within the state.

The proposed amendments could result in a net economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value). Any additional indirect economic effects are likely to be negligible (less than $232,000). However, these indirect costs would not serve to create new business in the state since the proposed amendments would not change the total State investment in Delta levee improvements, and they are unlikely to have any effect on local fees, assessments, or rates for individuals or businesses.

Since the proposed amendments would have a negligible effect on small businesses (as explained above in Section IV.), they would not have a significant statewide adverse effect on the ability of those businesses to compete. (*See also,* Section V.(9).) Therefore, the proposed amendments would not affect the creation of new businesses within the State.

5. Elimination of existing businesses within the state

The proposed amendments would not change the overall level of State investment in Delta levee improvements and would unlikely have any significant effect on individuals or businesses in the State.

The proposed amendments could result in a net economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value). Any additional indirect economic effects are likely to be negligible (less than $232,000 over the analysis period). Since the proposed amendments would not change the total State investment in Delta levee improvements, they are unlikely to have any effect on local fees, assessments, or rates for individuals or businesses. Therefore, the proposed regulations would not eliminate existing businesses within the state.

6. Expansion of businesses currently doing business within the state and geographic extent of regulations

While land is typically an asset and not a separate value-added economic activity, the proposed amendments could result in a net economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value). Any additional indirect economic effects are likely to be negligible (less than $232,000 over the analysis period). However, these indirect costs would not encourage or restrict expansion of businesses currently doing business within the state and geographic extent of regulations (the Sacramento San-Joaquin Delta and Suisun Marsh) since the proposed amendments would not change the total State investment in Delta levee improvements, and they are unlikely to have any effect on local fees, assessments, or rates for individuals or businesses.

7. Effects on small businesses

The direct fiscal cost of the proposed amendments falls on State agencies, not on businesses. As described under employment effects (Section V.(2.)(3.), businesses could be affected indirectly through changes in landowner expenditures or real estate sales commission, but this effect is negligible. Since the effect on general businesses is negligible, it follows that small businesses (using the consolidated definition of small business set forth in Cal. Gov. Code Section 11346.3(b)(4)(B)) would not be disproportionately affected or overly burdened by the proposed amendments.

8. Geographic impacts

The proposed amendments would require future discretionary State investments in Delta levees to be consistent with the priorities (Very-High Priority, High Priority, and Other Priority islands or tracts) determined by the DLIS. The DLIS prioritization considers a range of island-specific factors related to levee improvement including public and private property, potential impacts to life, recreation, and ecosystems. The DLIS prioritization also considers the importance of Delta levees as a system to State water supply reliability. The proposed amendments would not establish a rigid priority system that would defund levee investments directed toward specific islands or tracts. Rather, they would prioritize investments based on the DLIS in a way that directs levee improvement funds to the islands and tracts with the greatest risk, while taking into account program and funding authorities.

State expenditures were inventoried by island or tract, and each island or tract was ranked based on its DLIS priority. Of the $86.1 million expenditures used in this analysis, approximately $13.3 million (15.4%) in State funding was allocated to levee improvements on Other Priority islands or tracts, $7.1 million (8.3%) to levee improvements on High Priority islands or tracts, and $65.7 million (76.3%) to levee improvements on Very-High Priority islands or tracts. Therefore, the proposed amendments could affect the ongoing allocation of approximately $20.4 million in State expenditures on levee improvements on Other Priority or High Priority islands or tracts that occurred over the seven-year period from 2008 to 2015. Expenditures on Very-High Priority islands or tracts would not be affected.

Using the method and data described above, each dollar invested in levee improvements on High Priority or Other Priority islands or tracts that are included in this analysis reduces expected annual damages (EAD) by approximately $0.156 (that is, provides an expected benefit of $0.156). Therefore, reducing levee improvement expenditures on High Priority or Other Priority islands or tracts by $20.4 million would reduce benefits to those islands or tracts by $3.18 million. This loss is largely offset by benefits realized on other islands or tracts. Every dollar invested in levee improvements on Very-High Priority islands or tracts included in the analysis reduces EAD by (provides a benefit of) $0.083. Therefore, increasing expenditures by $20.4 million on Very-High Priority islands or tracts would increase benefits to those islands or tracts by $1.69 million. It follows that the net quantifiable economic cost equals $1.49 million. On an average annual basis, the net quantifiable economic cost, in terms of EAD, equals $212,700 per year.

9. Competition factors

As previously explained, the proposed amendments to Sections 5001 and 5012 would not change the overall level of State investment in Delta levee improvements and are unlikely to have any significant effect on individuals or businesses in the State. The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed amendments.

The proposed amendments would not require additional business reports or the use of specific technologies or equipment.

The proposed amendments could result in a net economic cost (higher EAD as a result of reallocation of prospective levee investments) of $212,700 per year ($3,900,000 in net present value) and any additional indirect economic effects are likely to be negligible (less than $232,000). Since the proposed amendments would not change the total State investment in Delta levee improvements, they are unlikely to have any effect on local fees, assessments, or rates for businesses.

Since the proposed amendments would have a negligible effect on businesses, the proposed amendments would not have a significant statewide adverse effect on the ability of those businesses to compete with each other or with businesses in other states. The direct fiscal cost of the proposed amendments falls on State agencies, not on businesses. As described under employment effects, businesses could be affected indirectly through changes in landowner expenditures or real estate sales commission, but this effect is negligible.

Since the proposed amendments would have a negligible effect on small businesses, the proposed amendment would not have a significant statewide adverse effect on the ability of those businesses to compete within the State or with businesses in other states. Furthermore, as explained previously, since the proposed amendments would have a negligible effect on business, proposed amendment would not affect the creation of new businesses or elimination of existing businesses within the State. Nor would the proposed amendments affect the expansion of businesses currently doing business within the State.

10. Reporting requirements

While the proposed amendments would establish a new reporting requirement for a State agency (DWR), they would not establish a reporting requirement that applies to businesses or the private sector. The proposed amendments would require DWR to prepare an annual report to the Council identifying its decisions to award State funds for Delta levee operation, maintenance, repair, rehabilitation, replacement, and improvement projects and include specific information in the report. If funding awards for levee improvement projects vary from the DLIS priorities, DWR would be required to identify how the funding is inconsistent with the priorities; describe why variation from the priorities is necessary; and explain how the funding nevertheless protects lives, property, or other State interests, such as infrastructure, agriculture, water supply reliability, Delta ecosystem, or Delta communities.

VI. FISCAL IMPACT

A. Local governments and schools

There are no non-discretionary costs or savings imposed upon local agencies or schools. The proposed regulations would not require local governments or schools to do anything different or new, and nothing would change with respect to any local subvention programs. Therefore, local agencies would not be directly affected by the DLIS prioritization and would not incur any additional fiscal costs beyond current requirements. This is because the proposed amendments do not place any additional requirements on local agencies. Instead, the proposed regulations impose a reporting requirement on DWR to ensure transparency. Local agencies do not have to report to the Council or justify to the Council why they received levee improvement funding. The proposed regulations do not impose a mandate on local agencies that would cause them to incur additional costs, nor does it create potential for savings.

As discussed previously, the proposed amendments would not increase or decrease the amount of State funds available for Delta levee improvements. Rather, the proposed amendments would potentially redistribute the available levee improvement funds to provide greater levels of funding to improve levees protecting Very-High Priority and High Priority islands and tracts, and lower levels of funding to improve levees protecting Other Priority islands and tracts. As also discussed previously, indirect effects of these shifts in funding are realized as changes in land value, which could potentially change revenues available to local public agencies and school districts. It follows that these shifts in funding, land values, and potential revenue could increase or decrease the funding available to individual local Reclamation Districts that manage Delta levees, depending on the priority assigned to the island(s) or tract(s) that each District manages. However, because the amount of State funds available for Delta levee improvements would remain constant, while some agencies and districts may realize increased or decreased revenues, there is no indirect net effect on revenues for local agencies and school districts on the whole. Furthermore, any net effect would apply to discretionary levee improvements, rather than to ongoing operations and maintenance activities. Thus, there would be no costs or savings to schools or local agencies.

B. State agencies

Under the proposed amendments DWR would be required to prepare and submit a written annual report describing expenditures on Delta levee operation, maintenance, repair, rehabilitation, replacement and improvement projects. No other State agencies, with the exception of DWR and the Council, will incur fiscal costs or savings as a result of the proposed amendments.

The proposed amendments would create fiscal costs to State agencies, (DWR and the Council) by requiring DWR to prepare an annual report and submit that report to the Council. DWR would incur additional fiscal costs to prepare the annual reports (see Section II.(A.) for a more detailed discussion). The Council would incur fiscal costs by reviewing the annual reports and coordinating with DWR.

DWR fiscal costs were estimated based on a review of the regulatory requirements by DWR and Council staff familiar with the proposed regulation. For budgeting purposes, the annual DWR staff cost, including all salary and fringe benefits, was estimated to equal $301,000.[15] This includes all direct staff time and fringe benefits for staff including review, and project leads to calculate estimated reductions in risk, prepare annual reports and coordinate with the Council.

The cost to DWR includes time to consult with Council staff and prepare the annual report indicating whether levee improvement expenditures are consistent with DLIS priorities, and describe how expenditures vary from the DLIS priorities, if necessary. The additional cost of preparing an annual report is generally moderate and can be completed by existing staff that are familiar with Delta levee investments and the Delta Plan.

The estimated fiscal cost of the proposed amendment to the Council is the additional resources required to review Delta levee investments reports prepared by DWR. This involves staff time to receive, review, comment, and coordinate on each annual report. There is no fiscal cost attributable to the change in Delta levee investments (e.g., capital investments in levee improvements) because the proposed amendment does not change the total level of funding available for Delta levee improvements. There is no known change in revenue associated with the proposed regulations.

The Council fiscal costs were approximated based on the fiscal cost estimate from the 2012 Cost Analysis. Council staff effort to review annual State reports is expected to include a mix of legal and senior technical staff. For budgeting purposes, the annual staff cost, including all salary and fringe benefits, was estimated to equal $104,000. This is consistent with the estimated Council fiscal cost used in the 2012 Cost Analysis, which equals approximately $99,000 when indexed to current dollars using the GDP Implicit Price Deflator.

No State agencies would see a fiscal savings under the proposed regulation for the reasons explained above.

C. Reimbursement

Because the regulations do not impose a cost on local governments or schools, there is no fiscal impact on any local government or school. The proposed regulations do not require local governments or schools to do anything different or new, and nothing changes with respect to any local subvention programs. As a result, the proposed regulations do not impose a reimbursable mandate on local governments or schools that requires reimbursement.

D. Federal funding to the State

No additional federal funding is required. There are no costs associated with the proposed amendments because there is no reduction in any funding. No direct or indirect fiscal impacts are anticipated to federally funded State agencies or programs as a result of the proposed amendments because the proposed amendments could affect the timing of levee investment but do not change the overall level of funding. Because there is no change to the overall level of funding, there are no savings in federal funding to the State.

VII. ALTERNATIVES

Alternatives to the proposed amendment are described in the main body of the ISOR in the Reasonable Alternatives to the Proposed Policy Actions section. California Government Code section 11346.2(b)(4)(A) requires the Council to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. Five alternatives were identified:

a. Alternative 1 – Retain Existing Section 5012 and Section 5001 Regulation (No Action)

b. Alternative 2 - Repeal Existing Section 5012 Regulation, Do Not Amend Section 5001

c. Alternative 3 - Prioritize Levee Investments in High Risk to Life or Property Areas

d. Alternative 4 – Prioritize Levee Investments in Delta Wetland Restoration Areas and High Risk to Life and Property Areas

e. Alternative 5 – Prioritize Levee Investments in Through-Delta Conveyance Areas and High Risk to Life and Property Areas

A. Alternative 1 – Retain Existing Regulations (No Action)

Under Alternative 1, the Council would not take any action to amend Sections 5001 or 5012. The definitions would not be amended in Section 5001 and the "interim" priorities currently set forth in Section 5012 for State investment in Delta flood risk management would remain in place and continue to guide discretionary State investments in Delta flood risk management. Alternative 1 would have no additional or reduced economic impact or benefits relative to the current regulation as analyzed and adopted in 2013.

Alternative 1 was eliminated from consideration because the interim regulation established in the 2013 Delta Plan was adopted with the intent of a future update to incorporate a more detailed risk analysis. The new regulations utilize a refined risk analysis to direct levee improvement funds to islands and tracts that represent the largest risk to State interests such as protecting life, property, and water supply reliability. The existing regulation states that prior to the completion and adoption of the updated priorities developed pursuant to Water Code section 85306, the interim priorities included in the regulation shall guide discretionary State investments in Delta flood risk management. Please also see Section III.

B. Alternative 2 – Repeal Existing Section 5012 Regulation, Do Not Amend Section 5001

Under Alternative 2, the Council would act to repeal Section 5012. The "interim" priorities set forth in Section 5012 for State investment in Delta flood risk management would be repealed and there would be no regulation to identify long-term priorities for State investments in Delta levee operation, maintenance, and improvements. Rather, the DLIS priorities would be implemented as a non-regulatory part of the Delta Plan. Alternative 2 would eliminate any economic impacts of Section 5012 of the current regulation as analyzed and adopted in 2013. Alternative 2 would reduce costs to State agencies since staff resources would not be required to produce or review a report, however the public would lose the transparency that a report would provide.

Alternative 2 was eliminated from consideration because Water Code section 85306 requires the Delta Plan to recommend priorities for State investments in Delta levees, including project and non-project levees.

C. Alternative 3 – Prioritize Levee Investments in High Risk to Life or Property Areas

Alternative 3 would focus investment priorities on levee improvements at islands or tracts identified as having a high risk to life or property, including urban and urbanizing areas of Sacramento, West Sacramento, and Stockton. Levee improvements that support other State interests (such as improving Delta ecosystem conditions or maintaining water supply corridors) would still occur but would be prioritized lower than investments in areas with higher risk to life or property. Continued funding would be provided for maintenance of levees throughout the Delta where authorized by Water Code section 12980 et seq. and consistent with the recommendations of the Central Valley Flood Protection Board (CVFPB).

The DLIS Final Report states that it followed "the Council's directive to rank risk to loss of life in the Delta as most important," and the islands and tracts having the highest risk to life are included as Very-High Priority. However, the DLIS did not provide a priority ranking and corresponding monetized assessment of an alternative that emphasized loss to life and property more than the recommended strategy. Therefore, there is insufficient information upon which a quantitative economic assessment could be based. However, the economic and fiscal impacts described above for the proposed amendments are representative of the general magnitude and timing of impacts that could be expected under Alternative 3. Alternative 3 would provide somewhat greater benefits in the categories of reduced risk to life and property and a somewhat lower level of benefits to water supply, ecosystem, and Delta as a place.

There is no evidence that Alternative 3 would be more effective than the proposed amendments in prioritizing Delta levee investments, be as effective and less burdensome to affected individuals or businesses or be more cost effective to affected individuals or businesses. As with the proposed amendments, economic impacts to private businesses or individuals would be negligible. Alternative 3 was eliminated from consideration because although it would achieve, or partially achieve, many of the objectives of the proposed amendments, it would not prioritize levee investments that protect ecosystem enhancements that provide high benefits over other types of levee investments.

D. Alternative 4 – Prioritize Levee Investments in Delta Wetland Restoration Areas and High Risk to Life and Property Areas

Alternative 4 focuses on prioritizing investments in levee improvements at islands or tracts identified as having benefits to Delta ecosystems and high risk to life or property. Levee improvements that support other State interests (such as maintaining water supply corridors) would still occur but would be prioritized lower than investments in Delta wetland restoration and high risk to life and property areas. Continued funding would be provided for maintenance of levees throughout the Delta where authorized by Water Code section 12980 et seq. and consistent with the recommendations of the CVFPB.

The DLIS did not provide a priority ranking and corresponding monetized assessment of an alternative that emphasized Delta wetland restoration more than the recommended strategy. Therefore, there is insufficient information upon which a quantitative economic assessment could be based. However, the economic and fiscal impacts described above for the proposed amendments are representative of the general magnitude and timing of impacts that could be expected under Alternative 4. Alternative 4 would provide somewhat greater benefits (relative to the proposed amendments) for Delta ecosystem and habitat and a somewhat lower level of benefits to loss of life and property, water supply, and Delta as a place.

There is no evidence that Alternative 4 would be more effective in prioritizing Delta levee investments, be as effective and less burdensome to affected individuals or businesses, or more cost effective to affected individuals or businesses. As with the proposed amendment, economic impacts to private businesses or individuals are negligible. Alternative 4 was eliminated from consideration because although it would achieve, or partially achieve, many of the objectives of the proposed amendments, it would not prioritize investments that contribute to protecting water conveyance and diversion infrastructure over other types of levee investments.

E. Alternative 5 – Prioritize Levee Investments in Through-Delta Conveyance Areas and High Risk to Life and Property Areas

Alternative 5 focuses on prioritizing investments in levee improvements at islands or tracts identified as having high risk to water supply, life, and property. Levee improvements that support other State interests (such as improving Delta ecosystem conditions) would still occur but would be prioritized lower than investments in high risk to water supply, life, and property areas. Continued funding would be provided for maintenance of levees throughout the Delta where authorized by Water Code section 12980 et seq. and consistent with the recommendations of the CVFPB.

The DLIS did not provide a priority ranking and corresponding monetized assessment of an alternative that emphasized water supply reliability and conveyance more than the recommended strategy. Therefore, there is insufficient information upon which a quantitative economic assessment could be based. However, the economic and fiscal impacts described above for the proposed amendments are representative of the general magnitude and timing of impacts that could be expected under Alternative 5. Alternative 5 would provide somewhat greater benefits (relative to the proposed amendments) for water supply reliability and conveyance and a somewhat lower level of benefits to loss of life and property, ecosystem, and Delta as a place.

There is no evidence that Alternative 5 would be more effective in prioritizing Delta levee investments, be as effective and less burdensome to affected individuals or businesses, or more cost effective to affected individuals or businesses. As with the proposed amendments, economic impacts to private businesses or individuals would be negligible. Alternative 5 was eliminated from consideration because although it would achieve, or partially achieve, many of the objectives of the proposed amendments, it would not prioritize levee investments that protect ecosystem enhancements that provide high benefits over other types of levee investments.

As demonstrated above, the Council considered alternatives to the proposed amendments and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome, while at the same time protecting human health, safety, and the environment; and 3) no alternative would be more cost-effective and equally as effective in implementing the statutory policy or other provisions of law. Further, the Council has determined that the effect on business is negligible, as explained previously. Therefore, it follows that there are no reasonable alternatives to the proposed amendments that would lessen any adverse impact on business, including small businesses, because no significant adverse impact will result from the proposed amendments.

VIII. SUMMARY OF ECONOMIC IMPACTS AND FISCAL COSTS IN FORM STD 399

The proposed amendments to Sections 5001 and 5012 would encourage State investments in Delta levee improvements that are consistent with DLIS priorities. The EFIA described the purpose, data, methods, and results of the economic and fiscal impact analysis. This section summarizes the findings of the economic and fiscal analysis corresponding to relevant sections of the STD 399 and identifies those findings within the relevant portions of the EFIA.

ECONOMIC IMPACT STATEMENT:

1. Section A: Estimated Private Sector Cost Impacts

Section A.1

The proposed amendments result in a negligible economic impact because the proposed amendments could affect the timing of levee investment but would not change the overall level of funding (see Section II.(A.) for overview and Section II.(B.) for methodology). The EFIA demonstrates that the proposed amendment would result in:

- Negligible direct costs to businesses, employees, or individuals (see Section V.)
- Negligible direct effect on jobs or occupations (see Sections V.(2.) and V.(3.))
- Negligible direct costs to small businesses (see Section V.(7.))

Please refer to Section IV. for a discussion concerning the negligible costs and prospective nature of the economic analysis. The proposed amendment could cause economic costs totaling approximately $212,700 per year.

The proposed amendments do not impose reporting requirements on the private sector (see Section V.(10.)).

Since the proposed amendments would have a negligible effect on businesses, the proposed amendments would not have a significant statewide adverse effect on the ability of those businesses to compete with each other or with businesses in other states, therefore there is no impact on California competitiveness (Section V.(9.)).

The proposed amendments are performance based, not prescriptive. The proposed amendments do not mandate the use of specific technologies or equipment or prescribe specific actions or procedures. The proposed amendments would require DWR to prepare an annual report to the Council identifying its decisions to award State funds for Delta levee operation, maintenance, repair, rehabilitation, replacement, and improvement projects and include specific information in the report. If funding awards for levee improvement projects vary from the DLIS priorities, DWR would identify in a report how the funding is inconsistent with the priorities; describe why variation from the priorities is necessary; and explain how the funding nevertheless protects lives, property, or other State interests, such as infrastructure, agriculture, water supply reliability, Delta ecosystem, or Delta communities. The proposed DLIS regulations are performance standard regulations. They describe the objective of prioritizing Delta levee funding and set forth criteria for achieving that goal, but do not specify the sole means of compliance with achieving that goal. DWR retains discretion to deviate from the criteria set forth in DLIS when funding levee improvements.

Section A.2

The Council determined that the total impact (including economic and fiscal costs) of the proposed regulation is less than $10 million (see Sections IV., V., and VI.).

Section A.3

Please see Section V.(1). above for analysis regarding total number/types of businesses entities potentially impacted.

Section A.4

Please see Section V.(1) above for analysis regarding the number of businesses that will be created or eliminated.

Section A.5

Please see Section V.(8.) above for information pertaining to the geographic extent of statewide and local/regional impacts.

Section A.6

Please see Sections V.(2.) and V.(3.) above for analysis regarding jobs created and eliminated.

Section A.7

Please see Sections V.(9.) above for analysis regarding the ability of businesses to compete with other states.

2. Section B - Estimated Costs

Section B.1.

The total statewide cost of the proposed amendments to businesses and individuals is negligible because the proposed amendment could affect the timing of levee investment but would not change the overall level of funding (Section IV.)

Section B.2.

Any indirect costs to businesses, small businesses, or individuals are negligible (see Section IV.).

Section B.3.

While the proposed amendments would establish a new reporting requirement for a State agency (DWR), they would not establish a reporting requirement that applies to businesses or the private sector.

Section B.4.

The proposed amendment has no direct effect on housing costs (see Section IV.). Other potential indirect economic costs to businesses and individuals may include the maximum indirect cost of a change in Estimated Annual Damages (EAD) on Delta island or tract land values, which is conservatively estimated to equal $212,700 per year (see Section IV.).

Section B.5.

The purpose of the proposed amendments is to implement and make specific Water Code section 85306 to provide guidance for State investments to maintain, improve or rehabilitate Delta levees while advancing the coequal goals. There is no comparable federal regulation because the Delta is unique to California (*See* Wat. Code sections 85000, et. seq.)

3. Section C - Estimated Benefits

Section C.1.

Please see Section VIII. above and the summary below. The proposed amendments would create monetizable and nonmonetizable benefits. Prioritizing investment in Delta levees would generate the following types of benefits:

- Reduced risk of damage to property and infrastructure, including reduced cost to repair failed levees
- Reduced annual risk of fatalities from a levee failure
- State water supply reliability benefits
- Ecosystem/habitat benefits
- "Delta as a Place" benefits from special qualities that distinguish the Delta

Most of these benefits are nonmonetized except for local reduced risk of damage to property and infrastructure, including the reduced cost to repair failed levees. The monetized benefit from reduced damage to property and infrastructure (EAD) equals $242,000 per year (see Section III.(B.)).

Section C.2.

The benefits of the proposed amendments are the result of specific statutory requirements and specific goals developed by the Council based on statutory authority. As summarized in the Delta Reform Act (Wat. Code § 85054), implementation of Delta Plan policies would provide the best means to achieve the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem, all in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place.

Section C.3.

The proposed amendments improve resiliency of Delta islands and tracts by targeting investments to the islands or tracts that provide the greatest benefits. This in turn would be expected to result in benefits to State and local public agencies or private individuals and businesses in the State resulting from changes in water supply reliability, ecosystem restoration, flood risk, or land use policies. The proposed amendments would increase these benefits by ensuring that levee improvement investments provide the greatest return to the State.

Section C.4.

No expansion of businesses identified.

4. Section D - Alternatives to the Regulations

Section D.1.

Section VII. describes five (5) alternatives to the proposed amendments and the approach to quantifying the costs and benefits of each proposed alternative, including quantification issues.

Section D.2.

Total statewide costs under the proposed amendments and all alternatives would be similar (< $213,000/yr., see Sections III and IV.), but most costs are not monetized.

Section D.3.

Economic impacts to private businesses or individuals under the proposed amendments and all alternatives would be negligible. There is no evidence that any of the alternatives would be more effective in prioritizing Delta levee investments, be as effective and less burdensome to affected individuals or businesses, or more cost effective to affected individuals or businesses.

Section D.4.

The proposed amendments and all alternatives would not mandate the use of specific technologies or equipment or prescribe specific actions or procedures, as explained above (Section VII.).

5. Section E - Major Regulations

As explained in Section II.(C.) above, the Council determined that the estimated economic impact of the proposed amendment to business enterprises and individuals located in or doing business in California is less than $50 million in any 12-month period, which is less than the threshold for a Major Regulation. See Sections IV. and V. for a discussion of economic costs, and Section VI. for a discussion of fiscal costs.

The proposed amendments would create monetizable and nonmonetizable benefits by prioritizing Delta levee investments consistent with the DLIS. Section III. summarizes all monetized and nonmonetized benefits of the proposed amendments identified by the Council including, where applicable, benefits to health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life.

FISCAL IMPACT STATEMENT:

1. Section A - Fiscal Effect on Local Government and Schools

Please see Section VI.(A.). No fiscal impact to local government exists. This regulation does not affect any local entity or program. There would be no direct costs or savings to local public agencies or schools. Local agencies would continue to assess fees and taxes and would still be eligible for the same level of funding for Delta levee improvements. Local public agencies may incur indirect administrative costs to monitor Council activities, attend meetings, and review documents and findings related to DLIS prioritization, but these costs would not be required in order to comply with the proposed amendments.

Further, since there is no fiscal impact to either local governments or schools, there are no savings created by the proposed amendments.

Please see also "Reimbursement" in Section VI.(C.).

There are no other impacts such as revenue changes in the amount of operating income received by local governments.

2. Section B - Fiscal Effect on State Government

As described in Section VI.(B.) above, the estimated fiscal effects of the proposed amendments on State agencies would occur in several forms. First, DWR would be required to prepare an annual report describing investments in Delta levees. Second, Council staff would be required to review that report and coordinate as necessary with DWR staff. Section VI.(C.) summarizes State fiscal costs. The total cost is estimated to equal $405,000 and would be absorbed within existing State (Council and DWR) budgets. The additional expenditures in the current State Fiscal Year are likely to be less than $405,000 and could be as low as zero.

There are no other impacts such as revenue changes in the amount of operating income received by state governments. No State agencies would see a fiscal savings under the proposed regulation.

3. Section C - Fiscal Effect of Federal Funding of State Programs

No additional federal funding is required and there is no reduction in federal funding. No direct or indirect fiscal impacts are anticipated to federally funded State agencies or programs as a result of the proposed amendments because the proposed amendments could affect the timing of levee investment but do not change the overall level of funding. (See Section VI.(D.) above).

IX. CITATIONS

California Department of Water Resources (DWR). 2017. Delta Levees Special Flood Control Projects. Project List 3/2/2017.

California Department of Water Resources (DWR). 2019. Delta Memorandum of Understanding (MOU) Working Group Meeting with Delta Stewardship Council (Council) and Central Valley Flood Protection Board (CVFPB). Attendees: Laura Hollender (DWR), Chris Williams (DWR), Erin Mullin (Council), Ryan Stanbra (Council), Meghan Sullivan (CVFPB), and Erica Bishop (GEI). January 23, 2019.

Delta Protection Commission (DPC). 2012. Economic Sustainability Plan for the Sacramento-San Joaquin Delta. pp. 61-62.

Delta Protection Commission (DPC). 2018. Delta Flood Risk Management Assessment District Feasibility Study and Delta Levee Financing Options Report.

Delta Stewardship Council (Council). 2010. Delta As Place: Agriculture White Paper.

Delta Stewardship Council (Council). 2012. Cost Analysis. Cost Analysis for Proposed Delta Plan Regulations in Support of Economic and Fiscal Impact Statement.

Delta Stewardship Council (Council). 2017. Delta Levees Investment Strategy Final Report.

Delta Stewardship Council (Council). 2017. Delta Levees Investment Strategy Risk Analysis Methodology Report.

Delta Stewardship Council (Council). 2019. Personal communication with Erin Mullin. Senior Engineer. Delta Stewardship Council. January 29, 2019. Updated to 2021 dollars using GDP-IPD.

Delta Stewardship Council (Council). 2021. Resolution 2021-02. Approval of the Delta Plan Amendments Program Environmental Impact Report Addendum and Rulemaking Authorization for Delta Plan Policy RR P1. August 26, 2021.

Delta Stewardship Council (Council). 2021. Staff-Recommended DLIS Prioritization Table and Map; Staff-Recommended Modified Preliminary Draft Regulatory Language for Delta Plan Policy RR P1.

MIG Inc. 2014. Impacts for Planning and Analysis Model. http://www.implan.com/. 2014 R3 California Counties Database (Delta Counties).

U.S. Bureau of Economic Analysis, Gross Domestic Product: Implicit Price Deflator, retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/GDPDEF.