

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Department of Fish and Wildlife	CONTACT PERSON Margaret Duncan margaret.duncan@	EMAIL ADDRESS wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Fees for Lake and Streambed Alteration Agreements, Amend Section 699.5, CCR, Title 14			NOTICE FILE NUMBER 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 e. Imposes reporting requirements
 b. Impacts small businesses f. Imposes prescriptive instead of performance
 c. Impacts jobs or occupations g. Impacts individuals
 d. Impacts California competitiveness h. None of the above (Explain below):

*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 Department of Fish and Wildlife estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- 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: ~2,000Describe the types of businesses (Include nonprofits): Govt Agencies; Private Developers; Ag; Water Suppliers; Gravel Mining; IndividualsEnter the number or percentage of total businesses impacted that are small businesses: <20%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: n/a5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: n/a7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

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? \$ 7M
- a. Initial costs for a small business: \$ ~300 Annual ongoing costs: \$ variable Years: 5
- b. Initial costs for a typical business: \$ ~600 Annual ongoing costs: \$ variable Years: 5
- c. Initial costs for an individual: \$ ~300 Annual ongoing costs: \$ variable Years: 5
- d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: Govt Agencies 30%; Developers 30%; Water Suppliers 20%
Agriculture 17%; Gravel Mining 3%.

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.* § n/a

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: _____
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

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 State fish and wildlife resources and those who enjoy or use them health and welfare of California residents, worker safety and the State's environment: _____
will benefit by the proposed fee increase as it will allow the Department to recover reasonable costs to administer and enforce Fish & Game Code Section 1600 et seq., to protect and conserve the state's fish and wildlife resources.

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
Explain: Fish and Game Code Sections 713, 1609, 1655, 6954, and 12029

3. What are the total statewide benefits from this regulation over its lifetime? § resource preservation value

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: n/a

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: 1) Increase fees by 278% to total cost of a complete program (94PY). 2) Increase fees 215% to cover the actual cost of the Program (59 PY). 3) Delay the increase, increase efficiency, or reduce the Program by increasing fees < 129% and reducing PYs by a corresponding amount.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

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

Regulation:	Benefit: \$	<u>>1.4M*</u>	Cost: \$	<u>1.4M</u>
Alternative 1:	Benefit: \$	<u>>3.7M*</u>	Cost: \$	<u>3.7M</u>
Alternative 2:	Benefit: \$	<u>>2.6M*</u>	Cost: \$	<u>2.6M</u>

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: *The non-market-traded ecological benefits of resource protection through LSA agreements are difficult to quantify.

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, nor does it prescribe specific actions or procedures.

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 through 12 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: _____

The incentive for innovation in products, materials or processes: _____

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: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

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).

\$ ~300 to ~\$5,000 per project fee increase

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: Local tax revenues subject to ratepayer review (Also see 6. Other. below)

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 The expenses incurred by local agencies are an incidental impact of the regulation that apply generally to all state entities.

Public and Private entities are affected alike; there is no unique burden on public entities.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

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)

\$ ~300 to ~\$5,000 per project fee increase

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)

\$ _____

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

4. Other. Explain CDFW revenue is anticipated to increase to fully recover the reasonable administrative and enforcement costs of the LSA program.

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

4/21/16

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

4/21/16

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

STD399 CALCULATIONS WORKSHEET

Amend Section 699.5
Title 14, California Code of Regulations
Re: Lake and Streambed Alteration Agreements

Fiscal Impact Statement

Section A. Fiscal Effect on Local Government

Question 2. Additional expenditures are estimated to be approximately \$300 to \$5,000 more per project than the 2014/15 Lake and Streambed Alteration Agreement (agreement) fees in the current State Fiscal Year which are NOT reimbursable by the State. (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

Question 2(e). The proposed regulation would result in a 129% increase in compliance costs for local governments that require agreements for local government projects. Box (e) is checked to indicate that the increased fees are expected to be “fully financed from local government fees and revenues.” The additional fees the Department proposes to charge for remediation of marijuana cultivation sites will have no fiscal effect on local government because local governments do not cultivate marijuana.

These costs are not reimbursable by the State (Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code). The California Constitution prohibits the State from imposing costs of a new program or increased level of service on a local agency or school district without providing a subvention of funds, except under certain circumstances. (Cal. Const. Art. XIII, Sec. 6, Govt. Code, § 17514). The California Supreme Court has held that the constitutional provision applies to “programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.” (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

The bar against state mandates was intended to require reimbursement for the costs involved in carrying out functions peculiar to government, not for expenses incurred by local agencies as an incidental impact of laws that apply generally to all state residents and entities. In addition, Government Code 17556 (d) states that the Commission on State Mandates cannot find that a mandate has been imposed if the Commission finds that the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. This applies regardless of whether the local agency or district has enacted or adopted such fees or assessments.

Section B. Fiscal Effect on State Government

Question 1. Additional expenditures are estimated to be approximately \$300 to \$5,000 more per project than the 2014/15 agreement fees in the current State Fiscal Year.

Question 1(a). The proposed regulation will result in a 129% increase in compliance costs for state agencies that require LSA agreements for state government projects. Box (a) is checked to indicate that the increased fees are expected to be “absorbed within their existing budgets and resources.” The additional fees the Department proposes to charge for remediation of marijuana cultivation sites will have no fiscal effect on state government because state governments do not cultivate marijuana.

Question 4. Other. The Department of Fish and Wildlife anticipates an increase in its revenue to fully recover the reasonable administration and enforcement costs of Lake and Streambed Alteration Agreements as shown in Table 1 (Lake and Streambed Alteration Program Fiscal Analysis for FYs 2010 – 2014).

Table 1. CDFW Annual LSA Program Revenue Projection

Fiscal Year	2014/15	2015/16	2016/17	2017/18	2018/19
Revenues	\$3,486,593	\$3,620,650	\$5,638,795	\$5,638,795	\$5,638,795
Expenditures	\$4,709,000	\$5,092,747	\$5,201,041	\$5,418,098	\$5,635,122
Balance	(\$1,222,407)	(\$1,472,097)	\$437,754	\$220,697	\$3,673

Projected Department Revenue by Project Type

The Department anticipates that the number by type of agreements will be similar to the five-year historical average. Table 2 (below) demonstrates how the proposed fee schedule is anticipated to impact Department revenue by project type.

Table 2. Proposed Fee Schedule for Full Cost Recovery

129% Increase (Cost Recovery - Current Program)					
		5 year Average	Current Fee	Proposed Fee	Anticipated Revenue
For agreements 5 years or less					
Standard Agreement	Project costs <\$5,000	904	\$245.00	\$561	\$507,414
	Project costs from \$5,000 to less than \$10,000	199	\$307.25	\$704	\$140,158
	Project costs from \$10,000 to less than \$25,000	291	\$613.75	\$1,405	\$409,559
	Project costs from \$25,000 to less than \$100,000	348	\$921.00	\$2,109	\$733,120
	Project costs from \$100,000 to less than \$200,000	112	\$1,351.50	\$3,095	\$345,395
	Project costs from \$200,000 to less than \$350,000	87	\$1,833.25	\$4,198	\$366,078
	Project costs from \$350,000 to less than \$500,000		\$2,763.25		
	Project costs \$500,000 \$350,000 or more	325	\$4,912.25	\$5,000	\$1,625,000
Total		2267			\$4,126,723
For agreements longer than 5 years					
Long Term Agreement	Base fee	16	\$2,947.50	\$6,750	\$105,296
	Project costs <\$5,000	3	\$245.00	\$561	\$1,683
	Project costs from \$5,000 to less than \$10,000	37	\$307.25	\$704	\$26,174
	Project costs from \$10,000 to less than \$25,000	2	\$613.75	\$1,405	\$3,092
	Project costs from \$25,000 to less than \$100,000	4	\$921.00	\$2,109	\$8,015
	Project costs from \$100,000 to less than \$200,000	1	\$1,351.50	\$3,095	\$1,857
	Project costs from \$200,000 to less than \$350,000	1	\$1,833.25	\$4,198	\$3,359
	Project costs from \$350,000 to less than \$500,000	0	\$2,763.25	\$6,328	\$2,531
	Project costs \$500,000 or more	8	\$4,912.25	\$11,249	\$89,992
					\$241,999
For agreements 5 years or less					
Gravel, Sand or Rock Extraction	Less than 500 cubic yards	2	\$613.75	\$1,405	\$3,092
	500 to less than 1,000 cubic yards	1	\$1,228.00	\$2,812	\$2,250
	1,000 to less than 5,000 cubic yards	1	\$3,070.50		\$0
	5,000 1,000 or more cubic yards	7	\$5,000.00	\$5,000	\$41,000
	Total	11			\$46,342
For agreements longer than 5 years					
Gravel, Sand or Rock Extraction	Base fee	1	\$12,280.75	\$28,123	\$33,748
	Annual fee	2	\$1,228.00	\$2,812	\$5,624
					\$39,372
For agreements 5 years or less					
Routine Maintenance	Base fee	53	\$1,474.25	\$3,376	\$180,280
	Per project	1026	\$122.75	\$281	\$288,518
					\$468,798
For agreements longer than 5 years					
Routine Maintenance	Base fee	24	\$2,947.50	\$6,750	\$163,345
	Per project	564	\$122.75	\$281	\$158,539
					\$321,884
Master	Base fee	1	\$36,842.00	\$84,368	\$118,115
	Annual fee	3	\$3,070.00	\$7,030	\$19,685
	Per project	52	\$307.25	\$704	\$36,869
					\$174,669
Extensions		136	\$245.50	\$562	\$76,459
	Total	136			\$76,459
Amendments	Minor Amendment	278	\$184.00	\$421	\$116,970
	Major Amendment	18	\$613.75	\$1,405	\$25,580
	Total	296			\$142,549
Notifications (Non-Timber)		2374			\$5,638,795
Extensions/Amendments		432			
Anticipated Revenue				\$5,638,795	
Expenditures (FY 18)				\$5,635,122	
Deficit/Surplus				\$3,673	

Fees for Marijuana Cultivation Sites That Require Remediation

The purpose of FGC Section 12029(d) is to allow the Department to charge an entity that must notify the Department and obtain an agreement to remediate a marijuana cultivation site under FGC Section 1602, a fee *in addition to* the fee the entity will need to pay for a standard agreement for such a project under the existing fee schedule for the LSA Program. (Cal. Code Regs., tit. 14, § 699.5, subd. (b)(1).) As a result, the fees the Department receives under FGC Section 12029(d) will bring some additional revenue to the LSA Program.

However, as with the revenue the current fee categories bring into the LSA Program, the purpose of this additional revenue is to simply offset the costs the LSA Program incurs to administer and enforce FGC Section 1600 et seq. As FGC Section 12029(d) recognizes, the Department's costs associated with remediating and permitting marijuana cultivation sites under FGC Section 1602 are higher than the costs associated with permitting other projects that require a standard agreement under FGC Section 1602.

The fees for marijuana cultivation sites that require remediation were established after evaluating staff hours spent on these projects. For projects to remediate marijuana cultivation sites, the Department identified the following activities Department staff conducts for these projects, and calculated the cost of conducting these activities based on the amount of time expended by staff: initial inspection of the cultivation site; preparing a notice of violation to the responsible party or parties; contacting or meeting with the responsible party or parties; conducting a site visit with the responsible party or parties; conducting an environmental assessment; preparing a draft agreement; and conducting compliance inspections over a five year period, as shown in Table 3 below.

Table 3. Staff Time Associated with Remediation and Permitting of Marijuana Cultivation Sites

Required Tasks	Smaller Site Hours	Larger Site Hours	Rate	Smaller Site	Larger Site
1. Initial inspection of the cultivation site	4.0	8.0	49.52	\$ 198	\$ 396
2. Preparing a notice of violation to the responsible party or parties	4.0	8.0	49.52	\$ 198	\$ 396
4. Contacting or meeting with the responsible party or parties	1.5	1.5	49.52	\$ 74	\$ 74
4. Conducting a site visit with the responsible party or parties	4.0	8.0	49.52	\$ 198	\$ 396
5. Conducting an environmental assessment	2.0	4.0	57.01	\$ 114	\$ 228
6. Preparing a draft agreement	12.0	20.0	57.01	\$ 684	\$ 1,140
7. Conducting compliance inspections over a five year period	15.0	21.5	49.52	\$ 743	\$ 1,065
Subtotal				\$ 2,209	\$ 3,696
Overhead			35%	\$ 773	\$ 1,293
Total Costs				\$ 2,983	\$ 4,989
Rounded				\$ 3,000	\$ 5,000

Based on the above and the hourly rate for an Environmental Scientist and a Senior Environmental Scientist (Specialist), the Department's estimated cost

ranged from approximately \$3,000 to \$5,000 per remediation project for which a standard agreement is required. The amount of time staff spends inspecting the site and preparing an assessment of the site depends on the size of the site, which accounts for the cost range. The fees for marijuana cultivation sites that require remediation were also set after evaluating the staff hours and other operational costs required.

The Department further determined that the amount of time staff spends inspecting the site and preparing an assessment of the site depends on the size of the site. The Department also determined that any agreement it would issue for a remediation project would be for a term of five years or less, and therefore in accordance with FGC Sections 1609(b)(1) and 12029(d), the Department would not be able to charge an additional fee in excess of \$5,000 that requires remediation. Based on the above and the hourly rate for an Environmental Scientist and an Environmental Scientist (Specialist), the Department's estimated cost ranged from approximately \$3,000 to \$5,000 per remediation project.

Based on the foregoing, the Department created two fee categories: \$3,000 for sites 1,000 square feet or less, and \$5,000 for sites greater than 1,000 square feet. The Department determined that these additional fees should be sufficient to "facilitate the remediation and permitting of marijuana cultivation sites" (Fish & G. Code, § 12029, subd. (d)), by covering the estimated cost the Department incurs for these projects.

The Department cannot estimate the revenue the additional fees for marijuana cultivation sites that require remediation will generate. The amount of revenue will depend on the number of marijuana cultivation sites that Department staff investigate in any given year; of those sites, how many will require remediation; and of those sites, how many will need to, and actually apply for and obtain an agreement under FGC Section 1602 to complete the remediation, among other variables. However, for comparison, in 2015, the Department conducted approximately 200 inspections of marijuana cultivation sites. Of those sites, approximately 180 were not in compliance with FGC Section 1602, and almost all of those sites were over 1,000 square feet in size. If all 180 sites complied with Section 1602 by notifying the Department and obtaining an agreement under FGC Section 1602, and all 180 sites were over 1,000 square feet, under the proposed action, the Department would receive additional revenue in the amount of \$900,000 (180 multiplied by \$5,000).