



In this presentation we'll provide an introduction to the Delta Plan, covered actions, and consistency certifications. We won't go into the details of Delta Plan policies or filing consistency certifications; for more detailed information about these matters we encourage you to talk with Council staff or schedule what we call an "early consultation" meeting.

Overview of Delta Plan

- 14 Regulatory Policies
- 73 Recommendations



So what's in this Delta Plan? Well here's a quick overview. The Delta Plan has 14 enforceable regulatory policies. Additionally, there are 73 recommendations in the Delta Plan. While these recommendations are not enforceable, staff encourages project proponents to incorporate them into planning and projects in the Delta.

What does the Delta Plan regulate?

Answer: Covered Actions

- Refer to the “Covered Action Checklist”

Checklist available online at

<http://deltacouncil.ca.gov/sites/default/files/documents/files/Covered%20Actions%20Checklist%20090913.pdf>



 DELTA STEWARDSHIP COUNCIL

What is subject to this Delta Plan and its regulatory policies? It's covered actions, which are defined by the 2009 Delta Reform Act.

For an activity to be classified as a covered action, it must at a minimum be a “plan”, “program”, or “project” under CEQA.

To figure out whether your project is a covered action, we recommend you start by working through the checklist we've provided (available at <http://deltacouncil.ca.gov/sites/default/files/documents/files/Covered%20Actions%20Checklist%20090913.pdf>).

So what probably is a covered action and what probably isn't a covered action? Some examples of covered actions that the Conservancy may consider funding include riparian restoration, creation of freshwater wetlands, and channel margin improvement projects. Activities like acquisition of conservation easements to protect existing habitat or farming practice certification programs could be considered by the Conservancy for funding but are highly unlikely to be Delta Plan covered actions.

Who determines what is a covered action?

 **Answer: Typically CEQA lead**

- Council staff **doesn't** determine if something's a covered action...



So who determines if a proposed activity meets the definition of a Covered Action? We generally recommend that this decision is left up to the CEQA lead agency.

Although we don't make the determination, Council staff can provide guidance for understanding what is or isn't a covered action based on the regulations. We recommend if you have any questions to give us a call or shoot us an email so we can help you figure out this whole process.

Certification of Consistency

- Submitted to Council website
- File certification before implementing
- Public can appeal certifications
- Early Consultation

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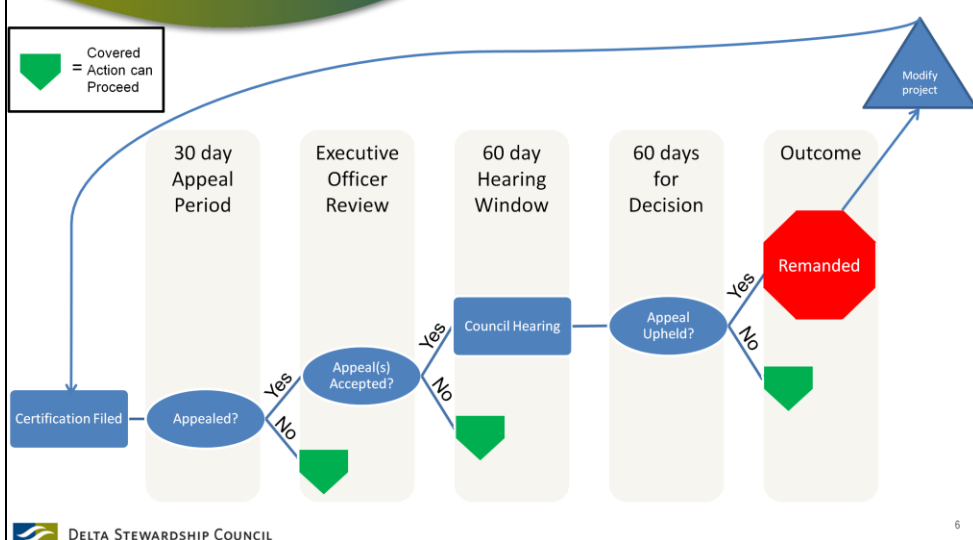
If your project is a covered action, the CEQA lead agency must file a certification of consistency with the Delta Plan and upload this to the Council's website.

Projects need to file certification and get through the covered action process before the **project can be implemented** (e.g., constructed). It's similar in a sense to, say, a county grading permit, in that construction cannot proceed until the project successfully certifies consistency with the Delta Plan.

Also, very important to note, is that the self-certification is subject to public review and appeal. Anyone can access the certification during a 30-day review period from the Council website and file an appeal. So we advise you to submit a well-supported certification package to minimize the chance of an appeal.

Council staff offers early consultation to project proponents to help you through the certification process and understand how the Delta Plan policies may relate to your project.

Certification and Appeal Timeline



Most important point I'd like to make here is the importance of filing a good certification that reduces the risk of appeal; otherwise the process make take months of extra time. Also if your project is appealed, you are given only 10 days to complete your administrative record, so it's best to make the original certification as robust as possible.

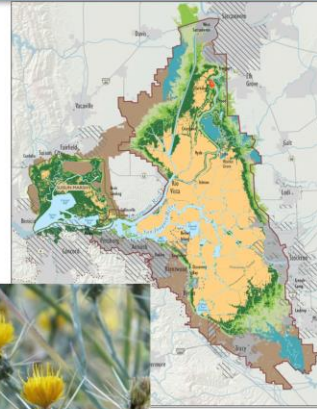
So which policies are usually applicable?

Answer:

- ER P2 (Restore at Appropriate Elevations)
- ER P5 (Invasive Species)
- DP P2 (Respect Local Land Use)
- G P1

For more details, go to

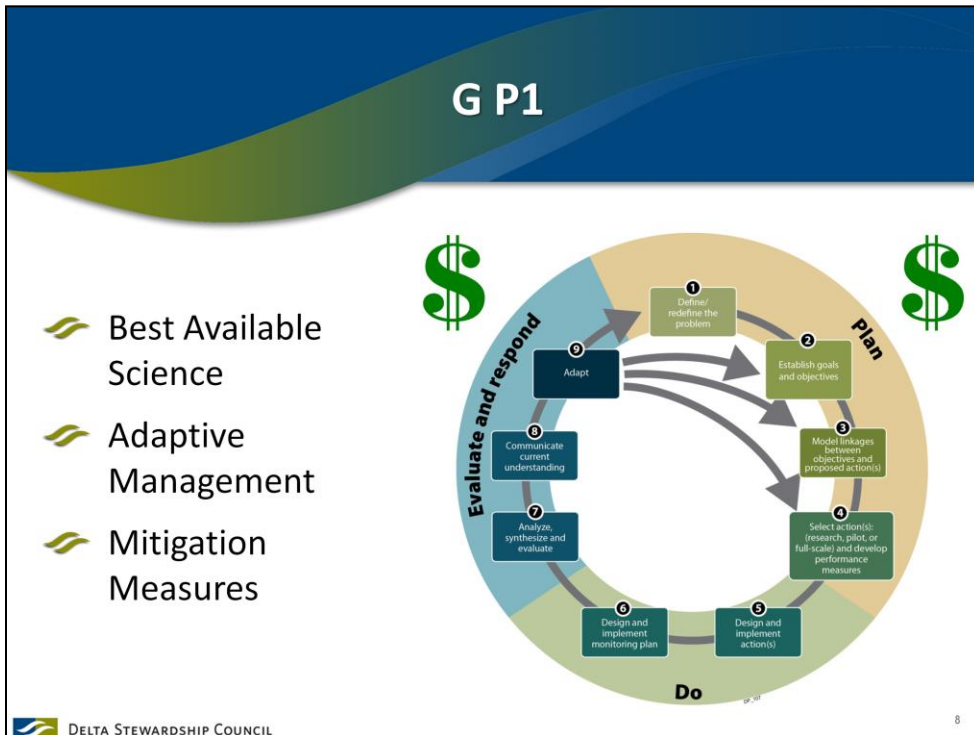
<http://deltacouncil.ca.gov/delta-plan-regulations>



Let's now briefly talk about a few Delta Plan policies that are most likely to apply for Delta Conservancy grants, such as habitat restoration projects.

We have printed materials available here at the meeting and information on our website that includes the language of each of the Delta Plan policies (please refer to <http://deltacouncil.ca.gov/delta-plan-regulations>).

Based on the Conservancy projects we reviewed last year, a few policies that were most often applicable were ER P2 (Restore Habitat at Appropriate Elevations), ER P5 (Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species), DP P2 (Respect Local Use), and G P1 (General Policy). If you have any questions about Delta Plan policies, please do not hesitate to call or email Council staff and we will walk you through them.




I just mentioned about this policy called G P1, which has three main parts. One is the requirement that covered actions be supported by best available science. The second main component of this policy is that water management and habitat projects must use adaptive management. There are many descriptions out there of what adaptive management means. Delta Science Program staff are here to follow-up with a presentation to explain the Delta Plan definition of adaptive management and how to write a good adaptive management plan. Please note that G P1 not only requires that an adaptive management plan be developed but that there are sufficient funds to implement said adaptive management plan. The last major requirement of this policy is that covered actions must have mitigation measures that are equal or superior to those within the Delta Plan Program EIR.

FAQs

 **What do you mean by “best available science” and “adaptive management”?**


Answer: consult Delta Science Program

 **When should I file a consistency certification?**

Answer: near the end of the CEQA process, once project description is unlikely to change much.

 **How long does it take for the Council to approve a covered action?**

Answer: Council has appeal authority only. Appeal period is 30 days. If appealed, a Council decision will be made within 120 days.

 **If my activity is categorically exempt from CEQA, is it automatically not a covered action?**

Answer: Not necessarily, if your activity is still considered a “project” under CEQA.