

California Water Commission

Procedure for WIIN Act Determination Regulations

December 18, 2019

Background

- The Water Infrastructure Improvements for the Nation (WIIN) Act was enacted in 2016.
- Section 4007 addresses water projects in California, including making funding available to build water storage projects in California if criteria are met.
 - Projects need a letter from the Governor that requests federal participation in California storage projects (section 4007(c)); and
 - A determination from the California Water Commission (Commission) that the project is consistent with Proposition 1.

Background (Continued)

- The Commission heard requests for determinations in June, August, September, and November from four projects seeking WIIN Act funding.
- The process to obtain the determination needs to be consistent to ensure fairness to all projects.
- The proposed regulations codify the process the Commission used for the previous four projects.

Process to Date

- The Commission directed staff to prepare draft regulations and file the Notice of Proposed Action (Notice) with the Office of Administrative Law (OAL) at its June 2019 meeting.
- OAL published the Notice in the California Regulatory Notice Register on November 1, 2019.
- Commission staff posted the Notice, Initial Statement of Reasons, and the draft Proposed Regulations on its website on November 1, 2019.
- The 45-day comment period closed on December 16, 2019.

Process if the Commission adopts the regulations

- If the Commission adopts the regulations today, staff will:
 - Draft the Final Statement of Reasons and related documents and post on the Commission website;
 - File the regulation package with OAL for review;
 - OAL has 30 working days to review the file and approve (or disapprove) the regulations.

Proposed Regulations

- Section 6100: Preamble
- Section 6101: Definitions
- Section 6102: Project Proponent Obligations
- Section 6103: Commission staff actions
- Section 6104: Project proponent presentation and Commission decision

Preamble and Definitions

- These sections set forth the purpose of the regulations and the definitions that will be used.
- Directly taken from California Water Code and the WIIN Act.

Project Proponent Obligations

- The project proponent must:
 - Submit a request to the Commission, in writing, requesting consideration at least 30 days before the requested evaluation date;
 - The request will generally be heard at the next Commission meeting that is at least 30 days later;
 - All materials the project proponent would like to present need to be provided to the Commission at least 10 days before the scheduled Commission meeting; and
 - The Commission will not schedule a special meeting for consideration of projects seeking WIIN Act funding.

Commission Staff Actions

- Commission staff will:
 - Confirm receipt of the request directly with the project proponent, and explain the process to obtain the determination;
 - Post all materials related to the request on the Commission website at least 10 days prior to the Commission meeting;
 - Provide copies of materials to each Commissioner;
 - Follow up with the project proponent to ensure the project proponent is aware of the time, date, and place of the meeting.

Presentation

- The project proponent must present statements and materials that show the project is consistent with Proposition 1.
- The Commission may ask questions of the project proponent and Commission staff, and deliberate about the project's consistency.
- The public may comment on the project at the meeting or in writing before the meeting, consistent with the Bagley-Keene Act.

Commission Decision

- The Commission may determine:
 - The project is consistent with Proposition 1;
 - Additional information is necessary and moves to continue the discussion to a future meeting; or
 - The project is not consistent with Proposition 1.
- If the Commission continues the discussion, a decision must be made at the next discussion meeting.
- No appeal.
- If a project is consistent, the Chair of the Commission will sign a resolution to that effect and provide a copy to the project proponent.

Questions?