



Action Item: Consideration of Regulations for Water Infrastructure Improvements for the Nation Act Determinations

Introduction

The California Water Commission (Commission) will conduct a public hearing to consider the adoption of the Procedure for Water Infrastructure Improvements for the Nation Act Determination regulations. The proposed regulations would allow the California Water Commission to implement a process to determine whether a project is consistent with Proposition 1, AB 1471, Stats 2014, to obtain federal funding.

Background

The Water Infrastructure Improvements for the Nation (WIIN) Act, December 2016, contains section 4007 authorizing the Bureau of Reclamation (Reclamation) to build water storage projects in the western United States. Section 4007 authorized a new financial structure for Reclamation to support infrastructure projects, which must be approved for construction prior to January 1, 2021. Projects are divided into two primary types, Federally-led and State-led. Federally-led projects, where the United States holds title, are eligible for up to 50% Federal funding. State-led projects are groundwater or surface storage projects constructed, operated, and maintained by the State or a political subdivision. The funding limit for State-led projects is 25% of the total cost of construction. The Secretary of the Interior must find that the project is feasible and provides federal benefits proportionate to the federal government's cost share. For State-led projects, the State Governor must request federal support for the project via letter to the Secretary of the Interior.

California projects have an additional requirement. Section 4007(f) requires that State-led projects obtain a finding from the California Water Commission that the project is consistent with the California Water Quality, Supply, and Infrastructure Improvement Act (Proposition 1) approved by voters on November 4, 2014. This provision requires a finding of consistency with Proposition 1 generally, not with a specific chapter within the Proposition.

Section 4007(f) does not require that a project apply for State funding through Proposition 1. Rather, for a State-led project to apply for WIIN Act funding, the California Water Commission must make a finding that the project is "consistent" with Proposition 1.

Proposition 1 consists of 12 Chapters. Chapters 1 through 4 provide information that is applicable to all subsequent funding chapters, such as term definitions. Chapters 5 through 11 describe various funding programs and specific requirements for each. Chapter 12 contains

fiscal provisions. In general, Proposition 1 aims to fund projects that achieve the following goals and objectives:

- Projects that address one or more of three objectives of the California Water Action Plan:
 - Reliable water supplies
 - Restoration of important species and habitat
 - More resilient and sustainable managed water infrastructure (adaptation to climate change)
- Projects that leverage private, federal, or local funding
- Projects that are consistent with State and Federal Wild and Scenic Rivers Act (projects cannot affect rivers with that designation)
- Projects that help improve water quality for beneficial use
- Projects that respond to climate change and increase regional water security
- Projects that help water infrastructure adapt to climate change, increase agency collaboration, or improve regional water self-reliance
- Projects that provide multiple benefits
- Projects that improve operation of the State Water Project, are cost effective, and provide a net improvement in ecosystem and water quality conditions
- Projects that involve the advanced treatment of waste water for water recycling or contribute to the storage, conveyance, or distribution of recycled water
- Projects that improve water supply reliability
- Projects that prevent contamination of groundwater or remove contaminants from groundwater
- Projects that reduce risk of levee failure and flooding in the Delta

Commission Actions

On June 19, 2019, the Commission directed staff to draft regulations that document the Commission's process for making a determination, and to start the formal rulemaking process, including publication of the notice. The draft regulations, Notice of Proposed Rulemaking, and Initial Statement of Reasons are available on the Commission's website at <https://cwc.ca.gov/DeterminationRegs>.

The public comment period for the proposed rulemaking began November 1, 2019. To be considered by the Commission, written comments must be received no later than 5:00 p.m. on December 18, 2019.

The Commission will conduct a public hearing in Sacramento on December 18, 2019, at its regular business meeting, beginning at 9:30 a.m. Interested members of the public may present

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comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The Notice of Proposed Rulemaking on the Commission's website contains additional details about the public hearing and how to provide comments.

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