

PROPOSED REGULATIONS

The proposed regulation text is set forth below in normal type.

CALIFORNIA CODE OF REGULATIONS

TITLE 23. WATERS.

DIVISION 7. CALIFORNIA WATER COMMISSION

CHAPTER 2. PROCEDURE FOR WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION ACT  
DETERMINATION

Section 6100. California water projects seeking funding from the Water Infrastructure Improvements for the Nation (“WIIN”) Act need to obtain a finding of consistency with Proposition 1 from the California Water Commission pursuant to section 4007(f). Section 4007(f) of the WIIN Act states that, for a California project to be eligible for WIIN Act funding, the California Water Commission must make a determination of consistency with Proposition 1. These regulations set forth the procedure to obtain the determination of consistency. The Commission previously made findings of consistency for projects it evaluated pursuant to California Code of Regulations title 23, section 6000 *et seq.* (WSIP Projects). These regulations do not apply to WSIP Projects.

Note: Authority Cited: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, Water Code section 150.

Reference: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612

Section 6101. Definitions.

- (a) “California Water Commission” or “Commission” shall mean the California Water Commission, as established by Section 150 *et seq.* of the Water Code.
- (b) “Commission staff” or “Staff” means employees of the Commission.
- (c) “Determination” shall mean the decision, by majority vote of the Commission, finding a project is consistent with the California Water Quality, Supply, and Infrastructure Improvement Act (2014).
- (d) “Project” shall have the same meaning as provided in Section 4007(f) of the WIIN Act.

(e) “Project Proponent” shall mean any entity promoting a State-led storage project in California.

(f) “Proposition 1” shall mean AB 1471, (2014), as codified in California Water Codes section 79701 *et seq.*

(g) “State-led storage project” shall have the same meaning as provided in Section 4007(f) of the WIIN Act.

(h) “Water Infrastructure Improvements for the Nation Act” or “WIIN Act” means 114 Public Law 322, 130 Statutes 1628, 2016 Enacted S. 612, also known as S. 612.

#### Section 6102. Project proponent obligations.

(a) The project proponent must submit a request to the Commission in writing, via e-mail or other delivery, asking the Commission to schedule a time for consideration of the project’s consistency with Proposition 1 at least thirty (30) days before the requested evaluation date. Projects submitting a request with less than thirty (30) days’ notice will be evaluated on a case-by-case basis for inclusion on the agenda for the requested meeting.

(b) The request must contain a proposed date of an already scheduled Commission meeting. The Commission will not schedule special meetings for purposes of consistency findings for WIIN Act funding.

(c) The project proponent must provide to Commission staff, at least 10 days before the scheduled Commission meeting, all materials to be presented to the Commission including any reports, findings, presentations or other information demonstrating the project is consistent with the provisions of Proposition 1, if the project proponent has materials to present. A project proponent is not required to present additional materials. If a project proponent would like to present such materials, these materials must be provided in a format that meets California’s website accessibility standard, consistent with California Government Code section 11546.7. More information can be found at [www.ca.gov/accessibility](http://www.ca.gov/accessibility).

Note: Authority Cited: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

Reference: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

Section 6103. Commission staff actions.

- (a) Commission staff will communicate directly with the project proponent upon receipt of the request submitted by the project proponent pursuant to section 6102(a) to confirm receipt of the request and explain the process the project proponent will follow, pursuant to these regulations.
- (b) Commission staff will post all materials related to the request on the Commission website at least 10 days prior to the Commission meeting.
- (c) Commission staff will provide copies (electronic or hard copy), as requested by each commissioner.
- (d) Commission staff will follow up with the project proponent to ensure the project proponent is aware of the time, date and place of the meeting.

Note: Authority Cited: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

Reference: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

Section 6104. Project proponent presentation and Commission decision.

- (a) The project proponent shall provide to the Commission, at the designated meeting, statements and materials demonstrating the project is consistent with Proposition 1. The Commission may ask questions and otherwise deliberate about the project's consistency with Proposition 1. The public may comment on the proposal, consistent with the provisions of the Bagley-Keene Open Meetings Act.
- (b) The Commission may make one of the following decisions at the conclusion of the public comments:

- (1) The Commission may deliberate among its members. The Commission may determine the project is consistent with Proposition 1 through its usual course of adopting a resolution.
- (2) The Commission may decide additional information needs to be submitted to further the Commission's understanding and to continue the discussion at a subsequent Commission meeting and direct staff to include additional discussion on a subsequent agenda.
- (3) The Commission may determine the project is not consistent with Proposition 1.

(c) If the Commission decides to continue the discussion pursuant to section 6104(b)(2) above, the Commission must make a decision that the project is or is not consistent with Proposition 1 at the meeting when the project is next discussed. The project shall not be discussed at more than two Commission meetings.

(d) The Commission's decision is final and may not be appealed.

(e) If the Commission determines the project is consistent with Proposition 1, the Chair shall sign a resolution indicating the Commission's determination. A copy will be provided to the project proponent.

Note: Authority Cited: 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612, 114 P.L. 322, 130 Stat. 1628, 2016 Enacted S. 612, 114 Enacted S. 612.

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