

SEPTEMBER 2015

California Water Commission
Water Storage Investment Program
Rulemaking Process

Rulemaking Process

- Will follow the regular rulemaking procedures in the Administrative Procedure Act (APA)
- The regular rulemaking process requires that a state agency meet certain notice and public comment requirements and upon request, provide a public hearing.
- APA requirements are designed to provide:
 - notice to the regulated community
 - meaningful opportunity for public participation
- Regulations will be reviewed/ approved by the Office of Administrative Law (OAL)

Regulations Package

- Four documents will be developed for the draft regulations package:
 1. Proposed regulation text
 2. Initial Statement of Reasons
 3. STD Form 399 Economic and Fiscal Impact Statement
 4. Notice of Proposed Regulatory Action (notice) and Informative Digest
- Once the notice is published in the California Regulatory Notice Register, the APA rulemaking process is officially started
- The Commission has one year to complete the rulemaking and submit the final rulemaking package to OAL

Comment Opportunities

- The APA requires, at a minimum, a 45 day opportunity for public comment following the Notice of Proposed Rulemaking
- The Commission will schedule a hearing no later than 15 days after the close of the public comment period
- After the 45-day public comment period, the Commission may decide to change the initial proposal. Changes may be (1) nonsubstantial; (2) substantial and sufficiently related; or (3) substantial and not sufficiently related.
- Depending on the scope of the proposed changes, the Commission will make each change to the draft regulations available for public comment for between 15-45 days before adopting such a change

Documents Not Included in the Draft Regulations Package

- Applications Instructions
 - Opens the solicitation period
 - Provides application due date and workshop information
 - Elaborates on evaluation criteria and potential scoring mechanisms for the criteria
 - Details Commission evaluation and funding decision process
 - Provides schedule
- Technical Guidance Appendix
 - Technical assistance and guidance for conducting analysis and monetizing project benefits

Staff Goals for Draft Regulations Text

- Interpret and make specific the Water Quality, Supply, and Infrastructure Improvement Act of 2014, particularly Chapter 8, as necessary for program implementation
- Minimize need to substantially revise adopted regulations if second solicitation is needed
- Comply with APA standards

Draft regulations should comply with the following APA standards:

- Authority – Provision of law which obligates the Commission to adopt regulations
- Reference – Statute that is being implemented, interpreted, or made specific
- Consistency – Not in conflict with, or contradictory to, existing law

Draft regulations should comply with the following APA standards: (cont'd)

- Clarity – Written so easily understood by persons directly affected
- Nonduplication – Does not serve the same purpose as a state or federal statute or other regulation
- Necessity – Evidence of the need for the regulation