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Title 23

Division 7. California Water Commission

Chapter 1

Article 4

Section 6010

NOTICE OF PROPOSED RULEMAKING

The California Water Commission (Commission) will conduct a public hearing at the time and place noted below to consider the removal of the dollar cap for early funding from the regulations that govern the Water Storage Invesment Program (WSIP), which is currently in effect as 23 CCR § 6010 (b)(5) and (e)(1). The proposed change removes the dollar cap for early funding, which could potentially contradict the percentage cap for early funding as set forth in the WSIP regulations (23 CCR § 6010(b)(4)). The proposed change does not change the percentage amount of early funding available to a project from the WSIP as early funding, nor does it constitute a new solicitation for projects that do not have a Maximum Conditional Eligibility Determination (MCED), which is the amount of Proposition 1 funding potentially available to each WSIP project.

OPPORTUNITY FOR PUBLIC COMMENT

Public Hearings. The hearing will be held in accordance with the requirements set forth in Government Code section 11346.8. The hearing will take place during the California Water Commission's regularly scheduled August meeting. The public will be able to attend the hearing in-person or via Zoom. The hearing details are as follows:

Date: August 20, 2025

Time: 9:30 am

Location: State of California, Resources Building,
715 P Street, Room 221
Sacramento, CA, 95814

Zoom link:

https://us02web.zoom.us/j/86489495509?pwd=zL9kZBQpj7TdsFgiDqHmMPE60soDH1.1

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Zoom details will also be released with the public agenda for this meeting, which will be released at least ten (10) days in advance of the hearing.

This item may be considered at any time during the regularly scheduled meeting of the Commission. Please consult the agenda, which will be available at least ten (10) days before August 20, 2025, to confirm where on the agenda this item will fall. The agenda will be posted at http://cwc.ca.gov.

Section affected: California Code of Regulations, title 23 section 6010 (b)(5) and (e)(1).

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on July 4th, 2025. To be considered by the Commission, written comments not physically submitted at the hearing must be submitted on or after July 4th, 2025, and received before the close of the comment period on August 18th, 2025, and must be addressed to the following:

California Water Commission
P.O. Box 924836
Sacramento, CA 94236

-or-

cwc@water.ca.gov

Please note that under the California Public Records Act (Government Code §6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

The Commission requests, but does not require, that written and email statements on this item be filed at least 10 days prior to the hearing so that Commission staff and Commissioners have additional time to consider each comment. The Commission encourages members of the public to bring to the attention of staff, in advance of the hearing, any suggestions for modification of the proposed regulatory action.

Additionally, the Commission requests, but does not require, that persons who submit written comments to the Commission reference the title of the proposal in their comments to facilitate review.

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AUTHORITY AND REFERENCE

Authority Cited: Sections 79705, 79711, 79750, 79751, 79752, 79753, 79754, 79755, and 79757, Water Code. Reference: Sections 79705, 79711, 79751, 79755, 79757, 10733.2, and 10753.7, Water Code.

DOCUMENTS INCORPORATED BY REFERENCE

No documents are incorporated by reference in the regulations.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(3)

Background and Effect of the Proposed Rulemaking

This notice of proposed rulemaking will remove the dollar cap for early funding for the WSIP (23 CCR § 6010 (b)(5) and (e)(1)). The proposed regulations do not result in a re-examination of the merits of a WSIP project, nor do they change the total amount of funding a project may receive from the WSIP if the project meets all the statutory requirements of Water Code section 79755. The proposed change only removes the dollar amount cap. It does not change or remove the 5% of MCED early funding limit (23 CCR § 6010(b)(4)).

Objectives, Benefits, and Policy Statement Explaining the Specific Benefits Anticipated from the Proposed Regulatory Action

The proposed change will remove sections (b)(5) and (e)(1) of 23 CCR § 6010. Due to the dissolution of the Los Vaqueros Joint Powers Authority and withdrawal of the Los Vaqueros Expansion project from the WSIP, the Commission may decide to allot the funds from Los Vaqueros's MCED to other projects. Prior to withdrawing from the WSIP, Los Vaqueros spent its early funding award, and those funds count toward the $135 million early funding cap. If the Commission decides to redistribute Los Vaqueros's potential funding to other WSIP projects, those projects may not have the opportunity to receive up to 5% of their updated MCED as early funding due to the $135 million cap. The ultimate benefit is allowing projects to receive up to 5% of their MCED award for early funding to address water supply and storage issues in California.

The proposed change would address the potential conflict between the $135 million cap on early funding and the 5% of project MCED cap on early funding.

Determination of Inconsistency and Incompatibility with Existing State Regulations Pursuant to Government Code 11346.5(a)(3)(D)

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The proposed changes would address the potential conflict between the $135 million cap on WSIP early funding (23 CCR § 6010(b)(5) and (e)(1)) and the 5% of MCED per project cap (23 CCR § 6010(b)(4)), by removing the dollar amount cap for early funding. The proposed regulations are not inconsistent or incompatible with existing state regulations.

The proposed regulations were developed to be consistent with the following sections of California Code: Government Code sections 11340.5 and 11342.600 requiring any rule of general application to be adopted as a regulation.

The Executive Officer has determined that the proposed regulation is not inconsistent or incompatible with existing regulations. The Executive Officer has concluded that 23 CCR § 6010(b)(5) and (e)(1) are the only regulations concerning the dollar amount cap on early funding.

Mandated by Federal Law of Regulations

The proposed changes to the regulation are not mandated by federal law or regulations but are necessary because of duties imposed on the California Water Commission via federal law.

Comparable Federal Regulations

These regulations do not have a federal counterpart, and do not impact, duplicate, or conflict with Federal regulations or statutes.

Summary of Existing Laws and Regulations Related Directly to the Proposed Rulemaking

The Water Storage Investment Program (WSIP) implements Proposition 1, Chapter 8, that provided $2.7 billion for public benefits of water storage projects. The California Water Commission (Commission) is administering the WSIP to fund the public benefits associated with these projects. To implement WSIP, the Commission adopted program regulations, pursuant to California Water Code section 79755, on December 14, 2016, then proceeded with a solicitation and application review. The language in Water Code section 79755(a) prevents the Commission from making final funding awards until the applicant has finalized environmental documentation, completed permits, obtained 100 percent of the non-public cost share, and has executed contracts with applicable State agencies for the administration of public benefits. However, while section 79755(a) prevents a final award until the project is construction ready, section 79755(c) allows for early funding of projects to assist with work related to completion of environmental documentation and permits. Program regulations implemented the early funding provision by requiring applicants to request early funding in their initial applications. In July 2018, the Commission made maximum conditional eligibility determinations (MCEDs) for projects, which set the amount of Proposition 1 funding potentially available to each project. The Commission also made three early funding awards. Early funding is a portion of a project's

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MCED that applicants may spend prior to the final funding award. 23 CCR sections 6010 (b)(5) and (e)(1) limit the amount of early funding the Commission can award to WSIP projects to $135 million, which is 5% of the $2.7 billion that was allocated to the program. Per WSIP regulations, projects are capped at receiving 5% of their MCED as early funding (23 CCR § 6010(b)(4)).

Other Statutory and Legal Requirements

California Government Code section 11340.5 states:

> (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

California Government Code section 11342.600 defines a regulation as:

> ...[E]very rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Because the proposed regulatory action is a "revision of any rule" adopted to "govern its procedure," the Commission needs to undertake a rulemaking to ensure the process it implements is consistent with Government Code section 11340.5.

FISCAL IMPACT DETERMINATION REGARDING THE PROPOSED ACTION

Local Mandate (Government Code Section 11346.5(a)(5))

Pursuant to Government Code sections 11346.5(a)(5) and (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs to covered State agencies. The proposed regulatory action would not create costs or savings in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, Title 2, division 2, part 7 (commencing with section 17500) or other nondiscretionary costs of savings to State of local agencies.

The regulation does not impose a mandate on any private individual, business or local government. The regulations govern the existing applicants to the Water Storage Investment Program.

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The determinations of the Commission's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below:

- Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code section 17500 et seq.: None.
- Cost or Savings for State Agencies: None.
- Other Non-discretionary Costs or Savings on Local Agencies: None.
- Cost or Savings in federal funding to the state: None

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Cost Impacts on Representative Private Persons or Businesses

The Executive Officer is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the projects do not meet the qualifications of a small business.

Business Reporting Requirements

The administrative requirements of the proposed regulations do not apply to business or private individuals. Therefore, there is no reporting requirement that applies to businesses.

Housing Costs

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 11346.3(b)

Effect on Jobs/Businesses

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The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Regulation

The objective of the proposed regulations is to address the potential conflict between the $135 million total early funding cap and the 5% of MCED per project early funding cap, by removing the total early funding dollar amount cap of $135 million.

A detailed explanation of the benefits of the proposed regulation is in the Initial Statement of Reasons, under "Problem Statement" and "Purpose of Proposed Regulation."

The proposed regulation will not affect the health and welfare of California because the proposed change is merely the removal of the dollar amount cap for early funding. Each WSIP project will still have to meet the requirements set forth in the WSIP regulations.

The proposed regulation will not affect worker safety because it does not address or involve specific safety concerns for workers.

The proposed regulation will not affect the state's environment because the change is merely the removal of the dollar amount cap for early funding. Each WSIP project will still have to meet the requirements set forth in the WSIP regulations, including finalizing environmental documents.

DISCLOSURES REGARDING THE PROPOSED ACTION

Costs potentially resulting from these regulations are:

There are no costs resulting from this proposed change.

The following are conclusions of an economic and fiscal impact analysis for the proposed regulations:

The proposed regulation will not result in a significant or permanent change in the number of jobs within the state.

No creation or elimination of businesses within the state would occur as a result of this proposed regulation.

The proposed regulation would not affect the competitive advantages or disadvantages of businesses within the state.

The proposed regulation would not significantly affect investment in the state.

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Incentives for innovation in business products, materials, or processes would not be affected.

ALTERNATIVES STATEMENT

The Commission must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

Commission staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled "Initial Statement of Reasons."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the Commission's website listed below, or may be obtained from Kimberly Muljat, California Water Commission, 715 P Street, Sacramento, California, 95814, (916) 651-7501.

The following materials are available for public review:

- Text of Proposed Regulation
- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Materials Relied Upon
- Form 400
- Form 399
- Final Statement of Reasons (upon completion)
- Final Text of Regulation (upon completion)

These materials may be viewed in two ways:

- Visiting the Commission's website (http://cwc.ca.gov)
- Arranging an in-person review. Please contact Kimberly Muljat (contact information provided above).

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Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice or may be accessed on the Commission's website (http://cwc.ca.gov).

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to:

Kaylee Minton
California Water Commission
P.O. Box 924836
Sacramento, CA 94236
916-719-9268

cwc@water.ca.gov

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to:

Kimberly Muljat
California Water Commission
P.O. Box 924836
Sacramento, CA 94236
(916) 651-7501

The Commission staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Internet Access

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the FSOR, when completed, are available on the Commission's website for this rulemaking at https://cwc.ca.gov .

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (beginning with section 11340).

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Following the public hearing, the Commission may adopt the regulatory text as originally proposed, or with nonsubstantial or grammatical modification. The Commission may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified text from the Commission contact persons listed in this notice.

The hearing location is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Commission requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

CALIFORNIA WATER COMMISSION

Laura Jensen

Laura Jensen

Executive Officer

Date: 6/26/2025