

STATE OF CALIFORNIA
CALIFORNIA NATURAL RESOURCES AGENCY
CALIFORNIA WATER COMMISSION

RESOLUTION NUMBER: 2021-02

RESOLUTION TO ADOPT REGULATIONS TO PROVIDE AN EARLY FUNDING
OPPORTUNITY

WHEREAS, the California Water Commission (Commission) adopted regulations governing the Water Storage Investment Program (Program) in December 2016;

WHEREAS, Title 23, California Code of Regulations, section 6010 allowed applicants to request early funding to complete environmental permitting and documentation, pursuant to California Water Code section 79755(c);

WHEREAS, four project applicants requested early funding in applications submitted in August 2017;

WHEREAS, the Commission evaluated the requests and granted early funding to three applicants in July 2018;

WHEREAS, several of the remaining applicants who did not apply for early funding have contacted the Commission, either independently or through a letter submitted to the Commission in May 2020, to request another opportunity to apply for early funding based on impacts from COVID-19;

WHEREAS, applicants to the Program indicated that COVID-19 has impacted their financial status because of the decreased property tax revenue and overall economic downturn;

WHEREAS, in light of the COVID-19 pandemic and the requests from applicants, the Commission is increasingly concerned about the short-term financial toll the pandemic will have on Program applicants who do not already have an early funding award and that, absent such an award, may not move forward with their projects;

WHEREAS, the Commission also recognizes the ongoing efforts of other agencies to address COVID-19 related impacts and understands that actions taken to mitigate those impacts must be coordinated across agencies;

WHEREAS, at its meeting on July 15, 2020, the Commission directed staff to draft regulations and a finding of emergency to be presented as soon as possible to address the applicants' concerns;

WHEREAS, staff drafted emergency regulations and a finding of emergency and published them to the Commission's website and sent on its subscriber listserv on

August 7, 2020, to every person who requested and indicated an interest in Commission business in compliance with Government Code 11346.1(a)(2); and

WHEREAS, the Commission met on August 19, 2020, and adopted the proposed emergency regulations with a minor change to the proposed regulations, specifically to require applicants to submit all presentation materials at least eleven (11) days in advance of the meeting instead of ten (10) in response to a comment received from the public;

WHEREAS, the emergency regulations adopted at the August 18, 2020 meeting became effective on August 31, 2020;

WHEREAS, the Administrative Procedure Act requires emergency regulations to be adopted through the regular rulemaking process and file a certificate of compliance within 180 days pursuant to Government Code section 11346.1(e);

WHEREAS, the Commission published a Notice of Proposed Action in the California Notice Register on November 27, 2020;

WHEREAS, the 45-day public comment closed on January 13, 2021; and

WHEREAS, the public hearing for the regulations was held at the Commission's regularly scheduled meeting on January 20, 2021.

NOW, THEREFORE, BE IT RESOLVED that the California Water Commission hereby adopts and approves the proposed regulations substantially in the form attached hereto as Attachment A;

BE IT FURTHER RESOLVED that the Commission directs staff to complete those ministerial tasks associated with completing the statutory requirements of the California Administrative Procedure Act; and

BE IT FURTHER RESOLVED that staff will submit the rulemaking file to the Office of Administrative Law before the expiration of the emergency regulations on June 30, 2021.

Signed:

Teresa Alvarado

Teresa Alvarado, Chair
California Water Commission

1/21/2021

Date

Attest:

Joseph Yun

Joseph R. Yun, Executive Officer
California Water Commission

1/22/2021

Date

NOTE: All additions to text are indicated in underline, all deletions are indicated in ~~strikeout~~.

CALIFORNIA CODE OF REGULATIONS

TITLE 23. WATERS

DIVISION 7. CALIFORNIA WATER COMMISSION

CHAPTER 1. WATER STORAGE INVESTMENT PROGRAM

Section 6010. Funding for Environmental Documentation and Permits.

[Subsections (a) – (e) are unchanged.]

(f) The Commission will make one additional funding opportunity available pursuant to this section for applicants to the Water Storage Investment Program that received a Maximum Conditional Eligibility Determination pursuant to section 6011 and either did not apply for or did not receive an award of funding pursuant to this section. Applicants that request funding pursuant to this section meeting these criteria must:

- (1) Notify the Commission staff of the applicant's intent to request funding for environmental documentation and permits at least fifteen (15) days in advance of the next regularly scheduled Commission meeting;
- (2) Present the request at a regularly scheduled meeting of the Commission explaining the need and scope of the request, including the amount requested as a portion of the Maximum Conditional Eligibility Determination; and
- (3) Provide any materials that will be used at the Commission meeting to the Commission staff at least fourteen (14) days before the regularly scheduled Commission meeting.

(g) If an applicant notifies the Commission pursuant to section 6010(f)(1), Commission staff shall provide an update on the specific project to the Commission at the scheduled Commission meeting before the applicant presents its request. The update shall include a status of the project and an overview of the quarterly reports received to date.

(h) The Commission will determine whether to award funding pursuant to section 6010(f) based on its discretion, the same as that exercised when decisions were made under this section during the initial evaluation of the applications, and based on the information contained in the reports submitted by the applicants as required by section 6013(d). The Commission may not delay a decision to a future meeting unless the meeting does not occur due to events of *force majeure* or lack of a quorum.

Note: 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.