



Briefing on Division of Safety of Dams Enforcement Regulations

Introduction

One of the statutory responsibilities of the California Water Commission is to approve Department of Water Resources (DWR or Department) rules and regulations not pertaining to the management and administration of the Department. DWR's Division of Safety of Dams (DSOD) is currently developing regulations to impose administrative civil penalties, punitive reservoir restrictions, and other actions to ensure compliance with California's Dam Safety Program. The regulations will establish an administrative process that ensures a dam owner's due process rights are protected through clear, detailed, and consistent administrative enforcement and hearing processes. The regulations will also provide clear and objective methodologies on how to calculate civil penalties.

Background

DSOD regulates over 1,240 state jurisdictional-sized dams to prevent failure, safeguard life, and protect property. DSOD provides regulatory oversight of dam design, construction, operations, and maintenance as provided for under the California Water Code and California Code of Regulations. While most dam owners meet regulatory requirements on time, there are dam owners that are not compliant with minimum dam safety requirements.

In June 2017, Senate Bill 92 (SB 92) bolstered DSOD's enforcement authority for dam safety violations to include civil penalties, property liens, and reimbursement of the Department's preparation of emergency action plans for non-compliant dam owners under Division 3, Part 1, Chapter 8 of the CA Water Code. Prior to SB 92, DSOD's statutory enforcement authority included directives and orders, reservoir restrictions, orders halting work, and criminal penalties. Referrals could also be made to the Attorney General's Office.

This regulatory action, which is part of the overall effort to bolster dam safety, provides for implementation of the enhanced enforcement provisions included in SB 92. Specifically, Water Code sections 6429 and 6432 authorize DSOD to impose property liens and punitive reservoir restrictions, and to assess civil penalties of up to \$1,000 per day on dam owners that fail to comply with any provision of Water Code, Division 3, Part 1, or any approval, order, regulation, or requirement of the Department. In addition, Water Code section 6431 authorizes DSOD to prepare a dam owner's emergency action plan and inundation map if the dam owner fails to do so, and to recover the costs from the dam owner.

This briefing will advance Goal Three of the Commission's Strategic Plan, which calls on the Commission to "carry out its statutory authorities associated with the Department of Water Resources to ensure that the Department's decisions on key programs and activities are based

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on sound information and advance climate resiliency,” stating that the Commission will “review, consider, and approve, as appropriate, all regulations by the Department, and provide public participation in the rulemaking process.”

Meeting Overview

At the April meeting, DSOD Division Chief Sharon Tapia will provide an overview of the California Dam Safety Program and brief the Commission on the draft enforcement regulations. This introductory briefing will be followed by a formal request for Commission approval of DSOD’s regulations after the notice requirements of the Administrative Procedure Act have been met later this year.

This is an informational item.

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