

Proposed Enforcement Regulations



CALIFORNIA DEPARTMENT OF WATER RESOURCES
DIVISION OF SAFETY OF DAMS

Sharon K. Tapia, P.E.

October 20, 2021

Agenda

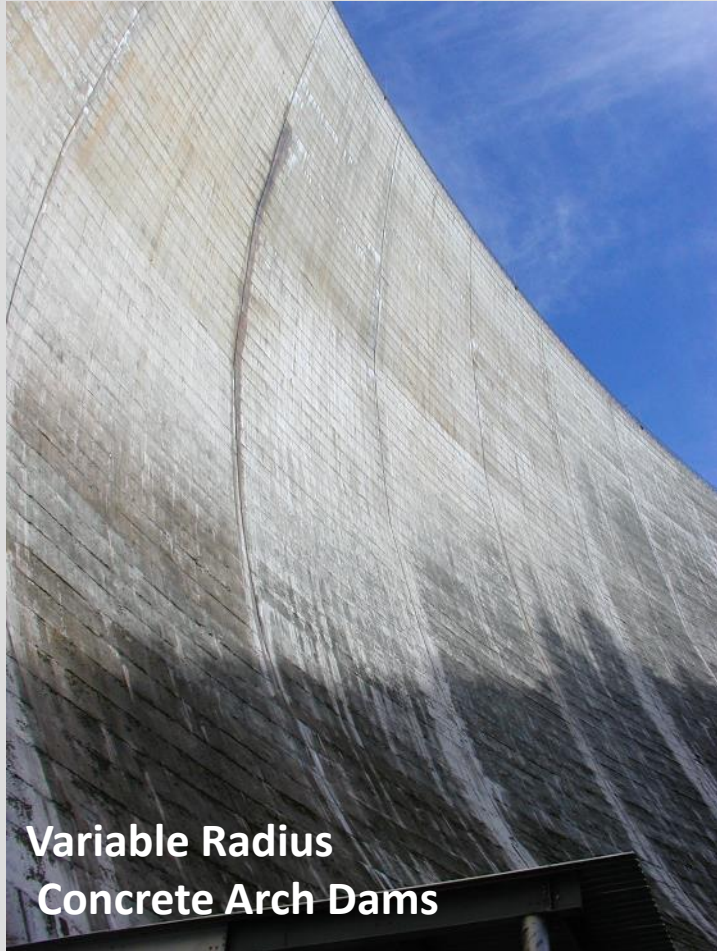
- Overview of the California Dam Safety Program
- Enforcement Authority & Regulation Framework
- Key Comments and Responses
- Final Regulations for Approval



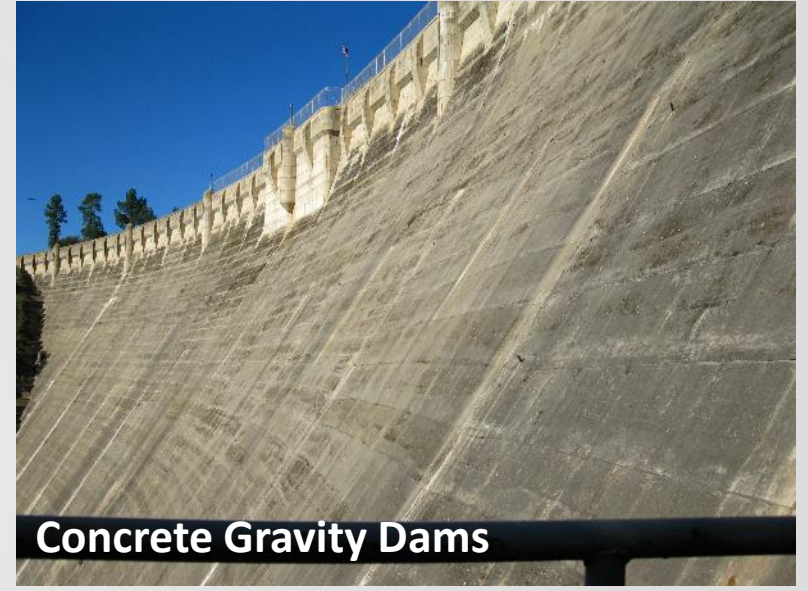
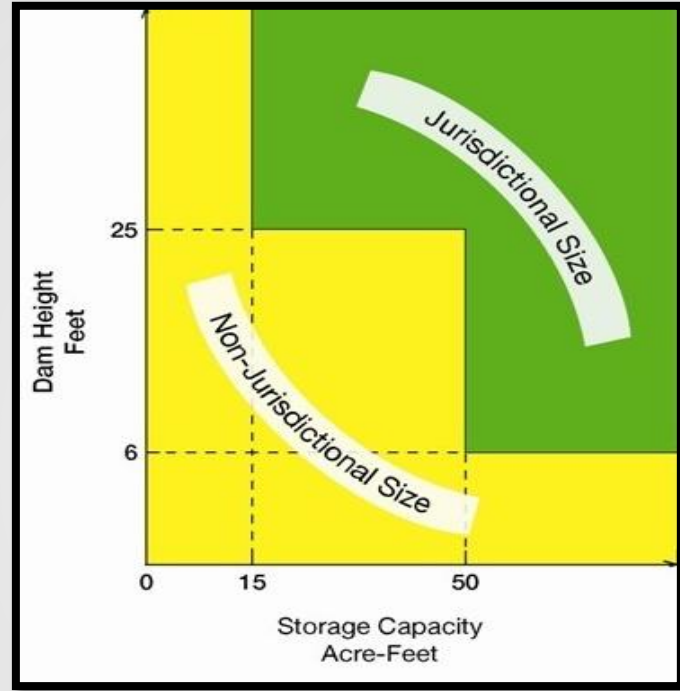
OVERVIEW OF THE CALIFORNIA DAM SAFETY PROGRAM



1,239 Regulated Dams and Reservoirs



Variable Radius
Concrete Arch Dams



Concrete Gravity Dams

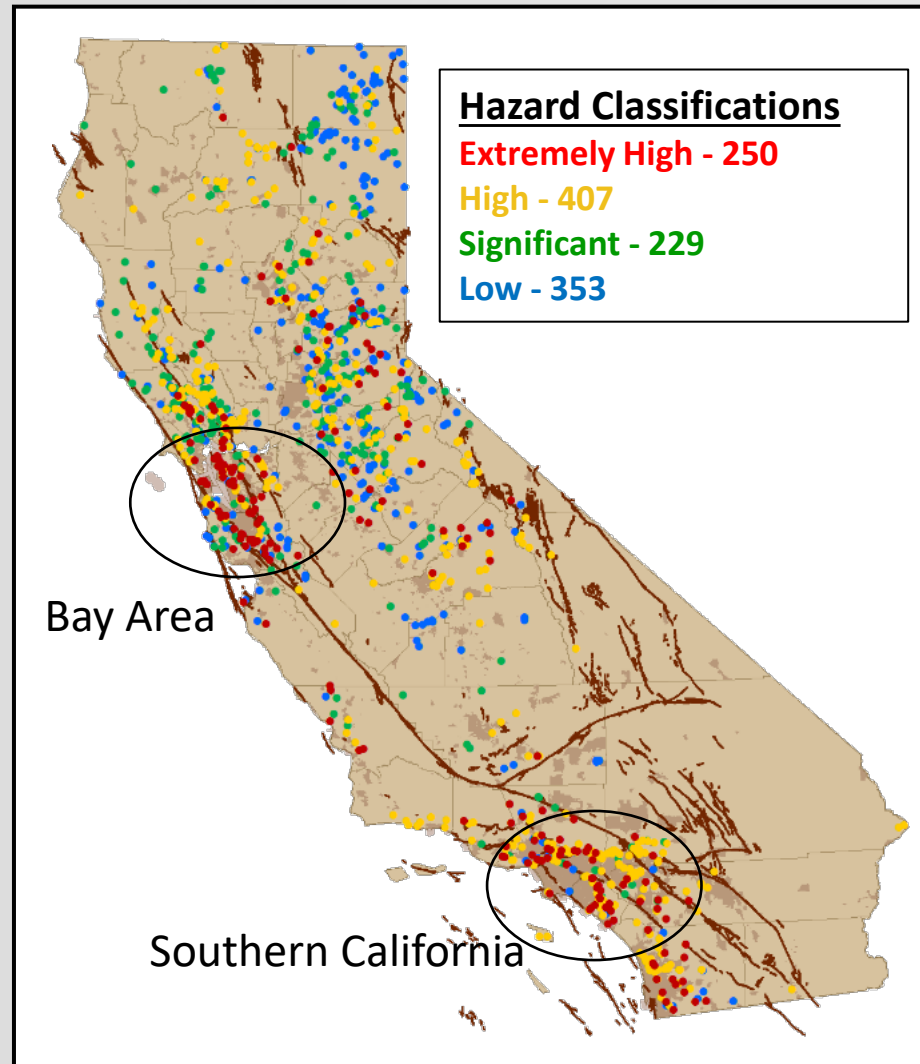


Earthfill Dams



Earth Rockfill Dams

Dam Hazard Classifications and Owners



626 Dam Owners

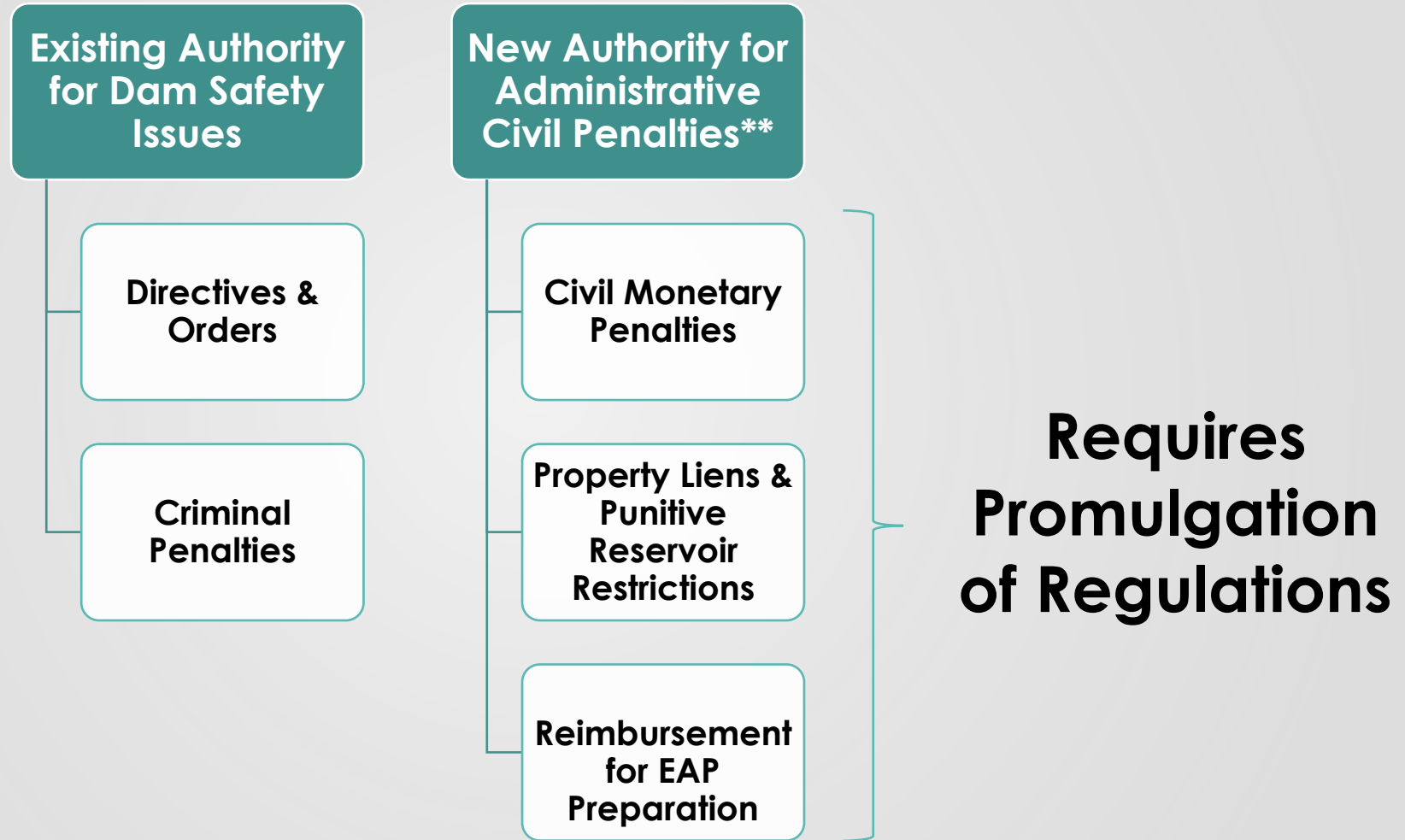
- 198 Private Companies
- 155 Individual Citizens
- 109 Districts
- 63 Cities
- 37 Associations
- 36 Counties
- 10 Water Agencies
- 10 State Departments
- 8 Trusts



ENFORCEMENT AUTHORITY & REGULATION FRAMEWORK



Bolstered Enforcement Authority*



*Senate Bill 92, June 27, 2017

**Water Code §§ 6428 - 6432



Regulation Overview

1. Information Requests
2. Administrative Enforcement
 - Purpose, Authority, and Definitions
 - Notice of Violation
 - Administrative Complaint
 - Assessment of Administrative Civil Penalties
 - Punitive Reservoir Restrictions
 - Property Liens
 - Hearing Process and Due Process
 - Settlement and Decision



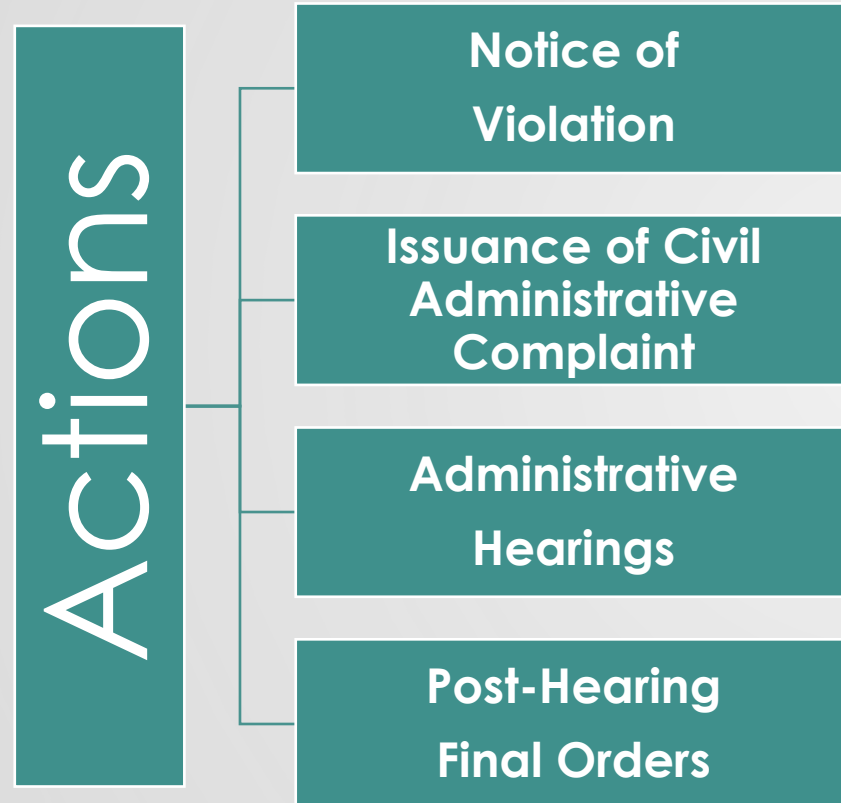
Information Request

The proposed regulations specify the Department's process for requesting information from dam owners, or suspected dam owners, about dam:

- Ownership
- Construction
- Operation
- Maintenance



Administrative Enforcement Framework



Types of Violations

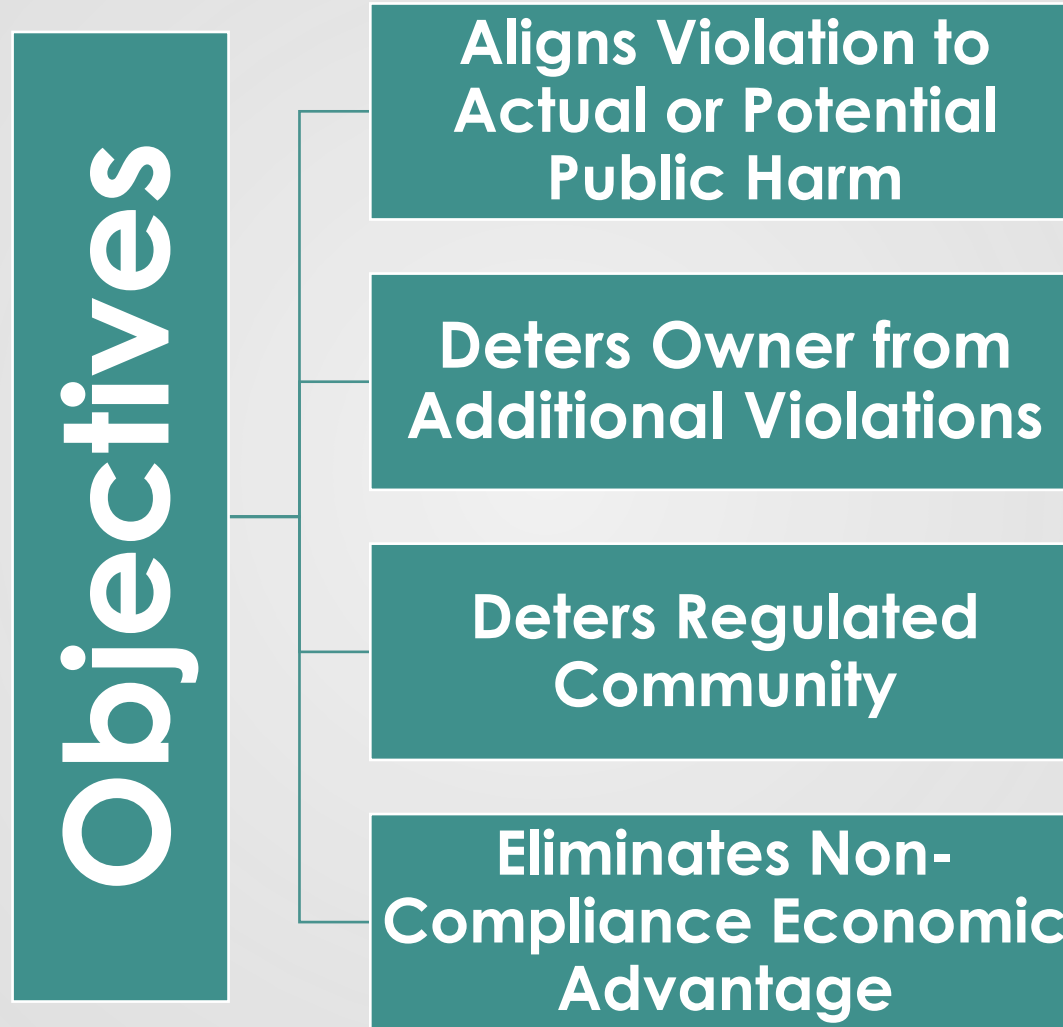
- Dam Safety Issues
- Maps/EAPs

Types of Civil Penalties Assessed (Punitive)

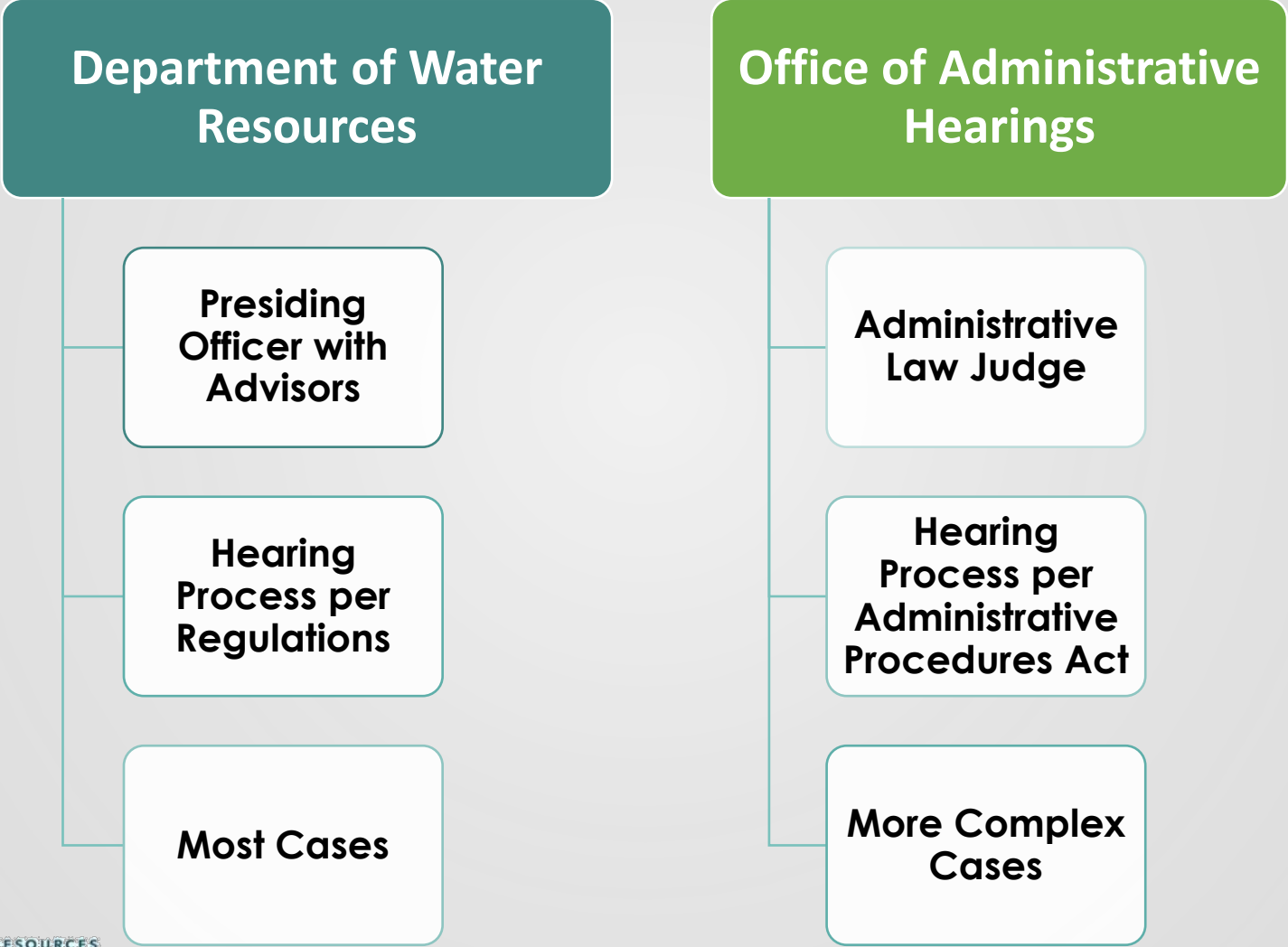
- Civil Monetary Penalties
- Reservoir Restrictions
- Property Liens



Administrative Civil Penalties



Administrative Hearing Options



Key Comments and Responses



Public Comment Periods

55-day public comment period – Initial Text

- May 21, 2021 – July 15, 2021
- Four (4) emails/letters received
 - Seventeen (17) comments
- Comments provided by four (4) individuals at public hearing (July 12, 2021)
 - Eleven (11) comments

19-day public comment period – Modified Text

- August 19, 2021 – September 7, 2021
- One (1) email/letter received
 - Four (4) comments



Key Comments Summarized

Key comments incorporated into the regulation:

- Provide more than twenty (20) days for a dam owner to request a hearing following the issuance of a Notice of Violation.
- Leaving documents (service) at the dam site with a person over the age of 18 should only be considered if all other options are unavailable.
- Provide further clarity regarding penalties.



Key Comments Summarized

Key comments considered, with no resulting changes:

- Consider that a dam owner is being cooperative or acting in “Good Faith” when considering enforcement actions.
- Provide additional information as to why the Department would send an information request.
- Consider impacts to electricity rates in the determination monetary civil administrative penalties.



Final Regulations for Approval

Modifications to Text:

- Increased the time period for requesting a hearing, following the issuance of a Notice of Violation, from twenty (20) to thirty (30) days.
- Modified language regarding the methods of service that the Department would employ, specifically leaving documents at the dam site with a person over the age of 18, should only be considered if other options are unavailable.
- Removed revocation of certificate of approval as an enforcement action.
- Added provision on establishing appropriate punitive reservoir restrictions.



Final Regulations for Approval

Clarifications to Text:

- Clarified that enforcement actions regarding emergency action plans include both the initial submittals and updates (required every 10 years by statute).
- Added a section on how punitive reservoir restrictions will be established versus reservoir restrictions imposed as a risk-reduction measure for dam safety.



Next Steps

Month	Planned Actions
October	Seek California Water Commission Approval of Regulations
November	Submit final rulemaking package to the Office of Administrative Law
December (tentative)	Adopt Approved Regulations
January 2022 (tentative)	Begin Implementing Enforcement Actions

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Thank You



Source: Association of State Dam Safety Officials (ASDSO)

