

# Proposed Enforcement Regulations



CALIFORNIA DEPARTMENT OF WATER RESOURCES  
DIVISION OF SAFETY OF DAMS

Sharon K. Tapia, P.E.

July 20, 2022

# Agenda

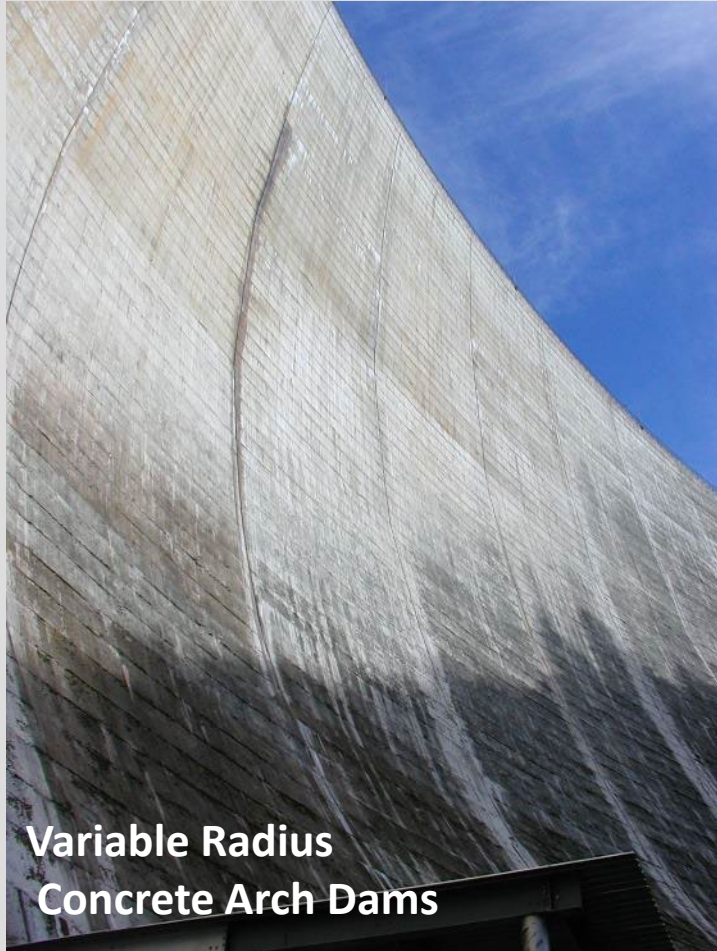
- **Overview of the California Dam Safety Program**
- **Enforcement Authority & Regulation Framework**
- **Key Comments and Responses**
- **Final Regulations for Approval**



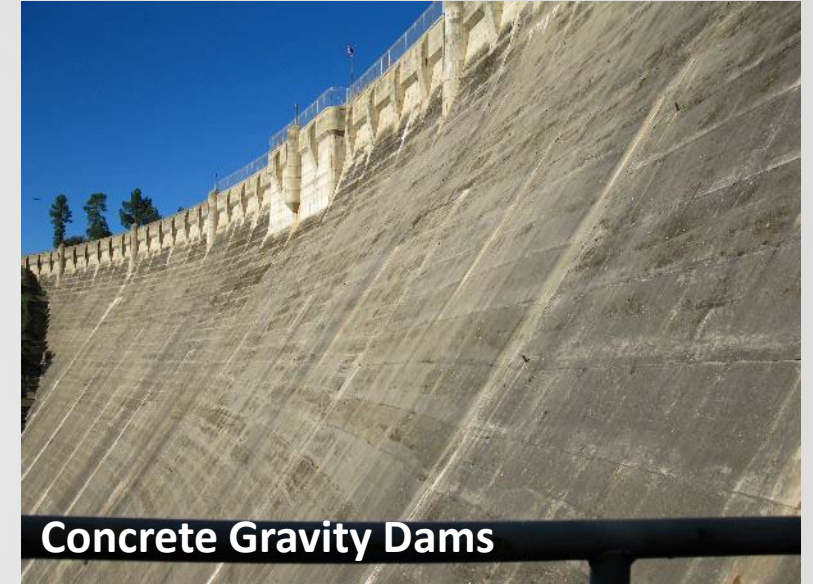
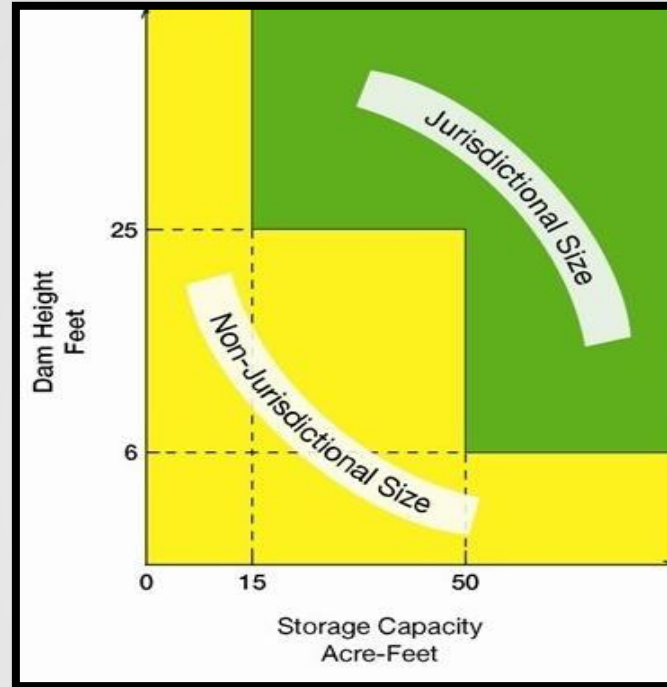
# OVERVIEW OF THE CALIFORNIA DAM SAFETY PROGRAM



# 1,239 Regulated Dams and Reservoirs



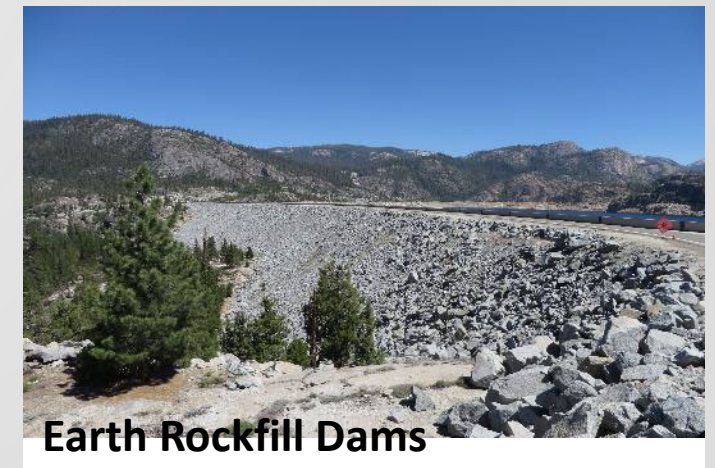
Variable Radius  
Concrete Arch Dams



Concrete Gravity Dams



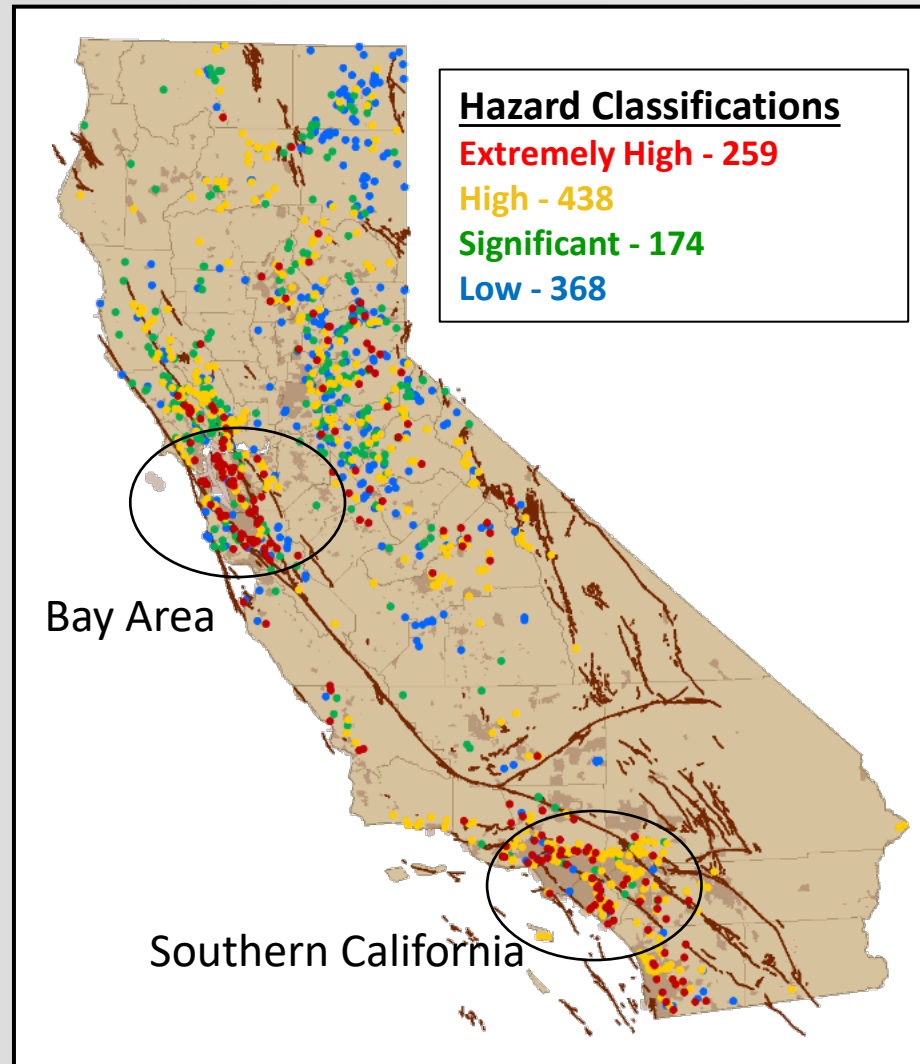
Earthfill Dams



Earth Rockfill Dams



# Dam Hazard Classifications and Owners



## 619 Dam Owners

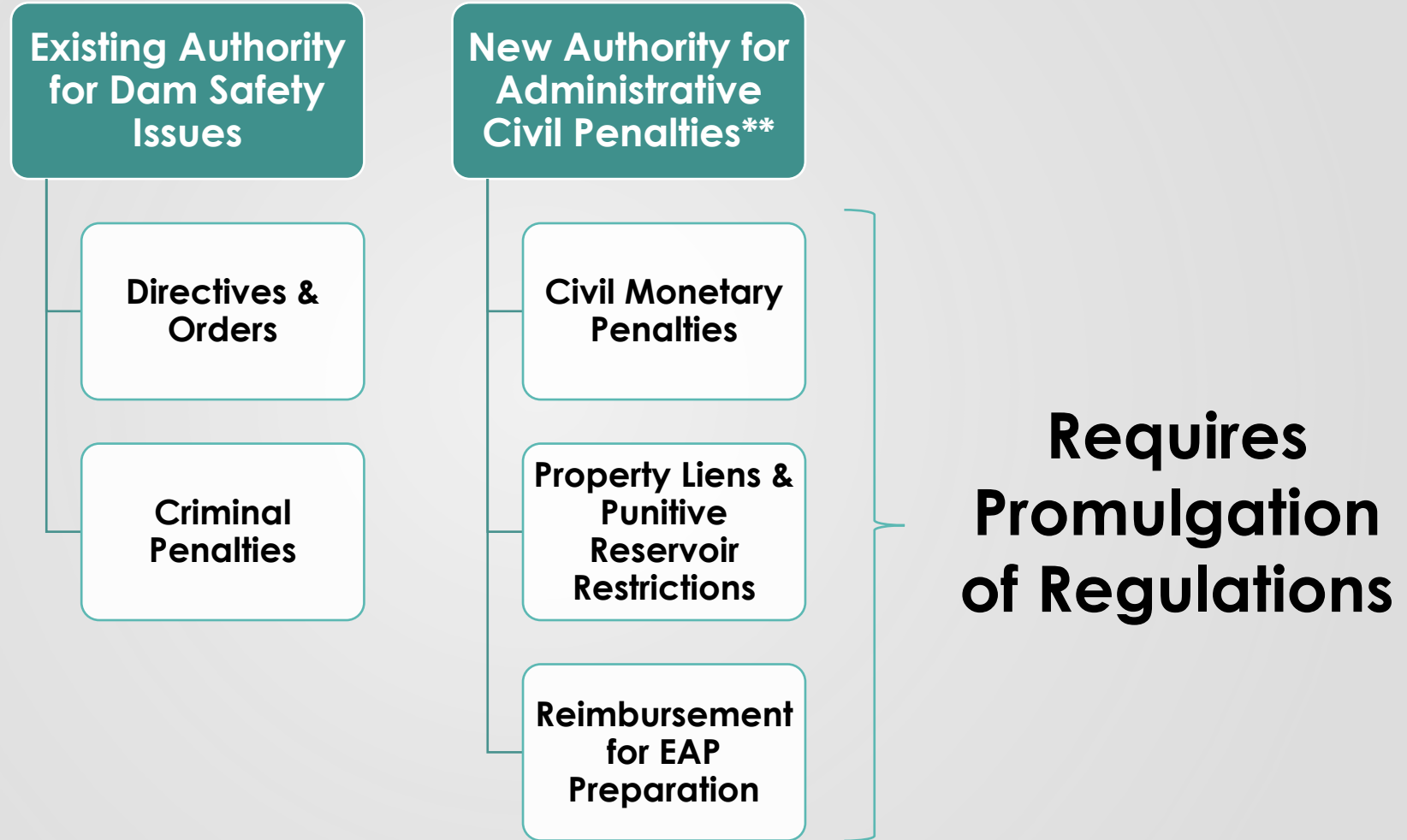
- 191 Private Companies
- 151 Individual Citizens
- 110 Districts
- 63 Cities
- 39 Associations
- 36 Counties
- 10 Water Agencies
- 11 State Departments
- 8 Trusts



# 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





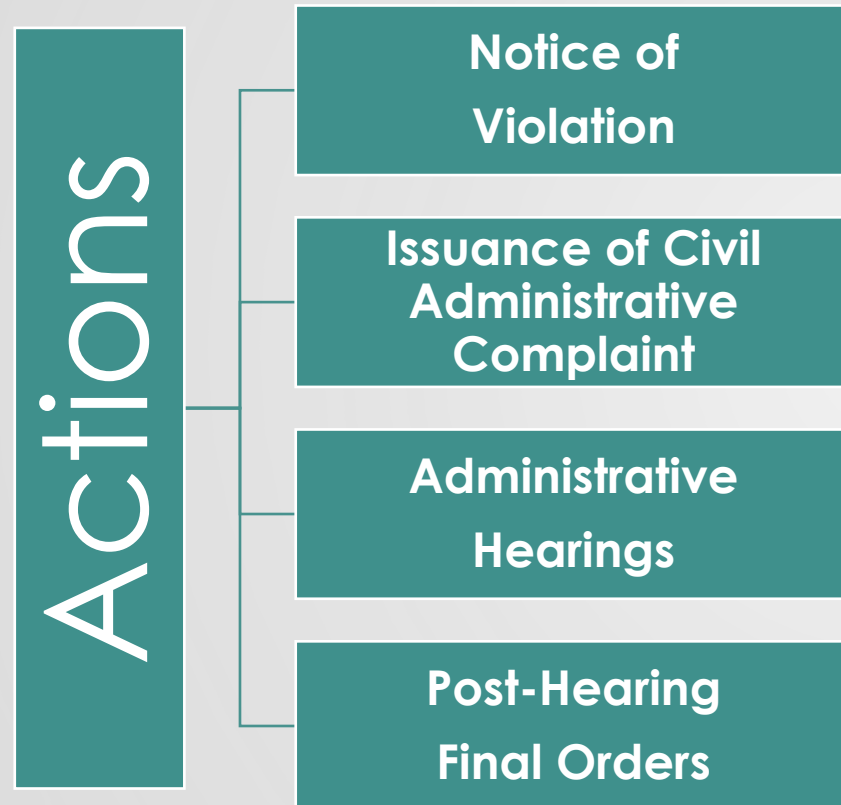
# Information Request

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

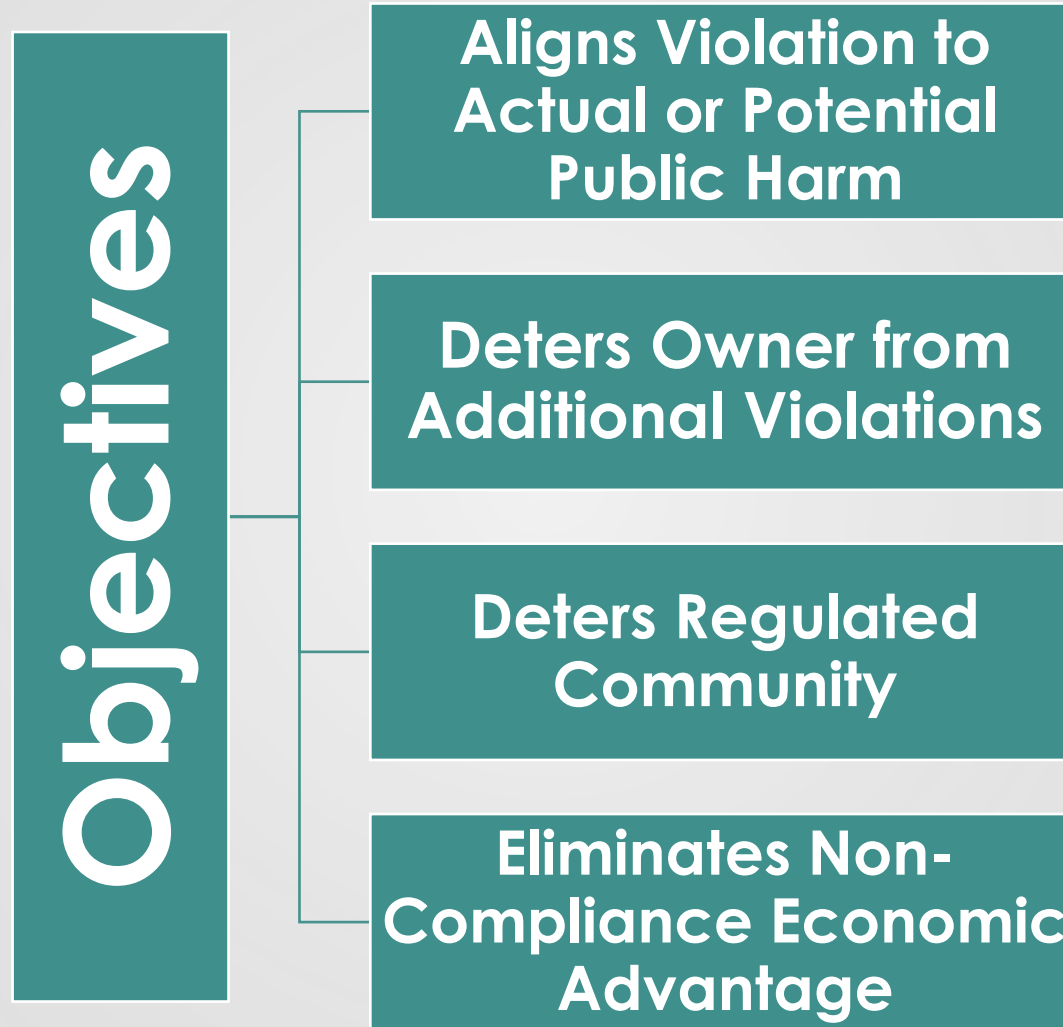
- Dam Safety Issues
- Maps/EAPs

## Types of Civil Penalties Assessed (Punitive)

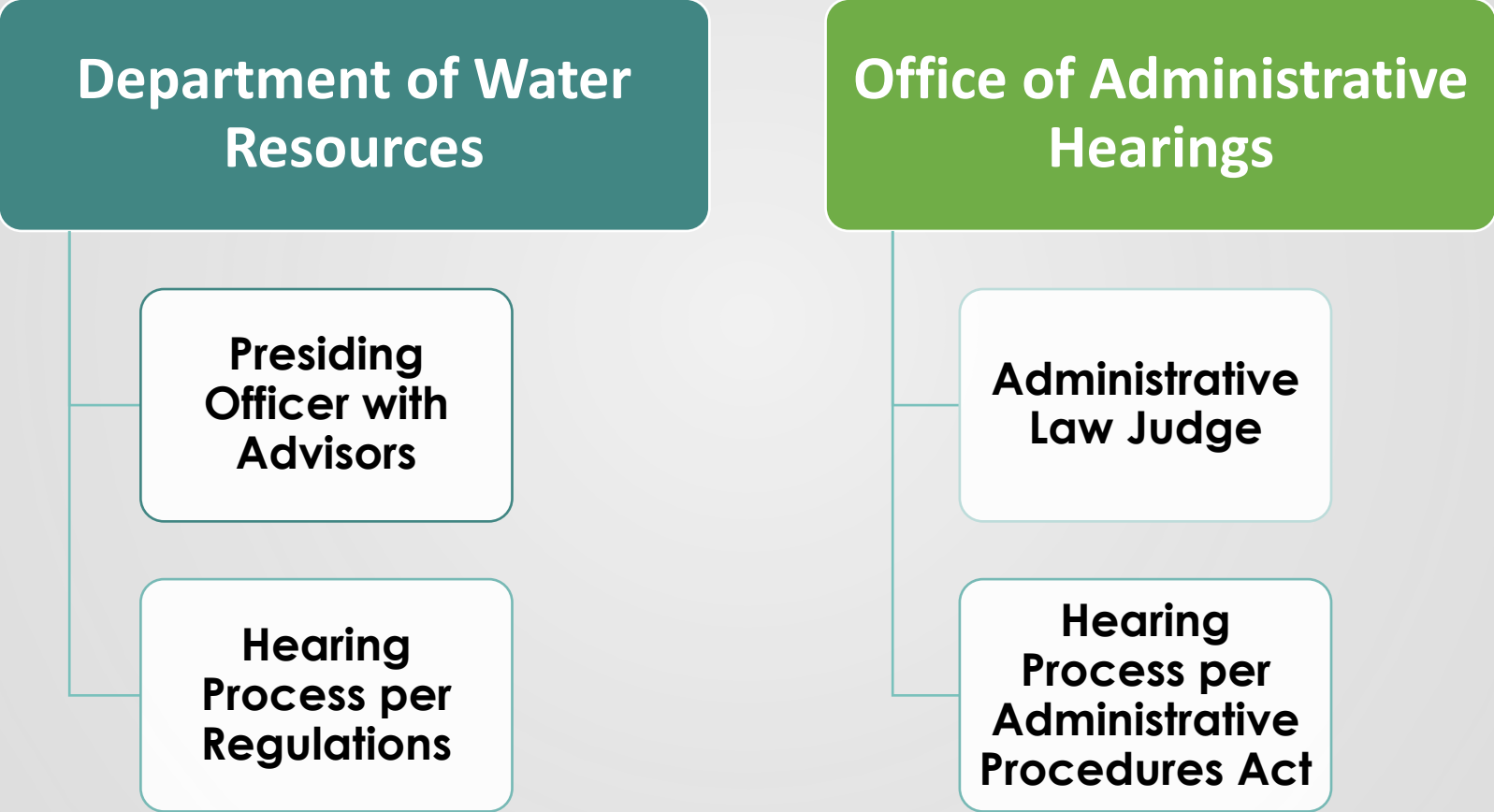
- Civil Monetary Penalties
- Reservoir Restrictions
- Property Liens



# Administrative Civil Penalties



# Administrative Hearing Options



# Key Comments and Responses



# Public Comment Periods

## **55-day public comment period – Initial Text (May 21 – Jul. 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 (Aug. 19 – Sept. 2021)**

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

## **16-day public comment period – Modified Text (Jun. 20 – Jul. 6, 2022)**

- **One comment provided after the comment period had ended**



# Final Regulations for Approval

Noteworthy Modifications to Text since October 2021:

- **Revised the usage of “may” to “shall” in many instances.**
  - As an example, in section 337.62 of the proposed regulations, the language was changed from “may” to “shall” when setting forth how the “total base penalty” is adjusted.
  - “The department ~~may~~**shall** adjust the total base penalty considering each of the following adjustment factors:”
- **Removed provisions for reimbursement of Department costs for enforcement.**



# Final Regulations for Approval

Noteworthy Clarifications to Text since October 2021:

- Clarified who would be subject to information requests and how a suspected dam would be determined.
- Added clarifying criteria that will be considered when “may” is used in the regulation text.
  - For example: When determining whether to issue a Notice of Violation under section 337.4 of the proposed regulations, “**DSOD will consider the nature of the violation, potential threat to life and property posed by the violation, and the number of violations that would be included in a Notice of Violation.**”





# Next Steps

Month	Planned Actions
July	Seek California Water Commission Approval of Regulations
August	Submit Final Rulemaking Package to the Office of Administrative Law
October (tentative)	Adopt Approved Regulations
January 2023 (tentative)	Begin Implementing Enforcement Actions

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# Thank You



Source: Association of State Dam Safety Officials (ASDSO)

