



Consideration of Division of Safety of Dams Enforcement Regulations (Action Item)

Introduction

One of the statutory responsibilities of the California Water Commission is to approve Department of Water Resources (DWR) rules and regulations not pertaining to the management and administration of the Department. DWR's Division of Safety of Dams (DSOD) is developing a rulemaking package that will establish regulations for imposing administrative civil penalties, 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, and, with respect to civil penalties, provide clear and objective methodologies on how the penalties are calculated.

The Commission previously heard this item at its October 20, 2021 meeting. DSOD made modifications to the proposed regulations and made the modifications available to the public beginning on June 23, 2022. The Commission must approve the regulations before they can become effective, pursuant to Water Code section 161.

Background

DSOD regulates approximately 1,240 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 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 Senate Bill 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

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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 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 July meeting, DSOD Division Chief Sharon Tapia will provide a short overview of the California Dam Safety Program and update the Commission on the proposed enforcement regulations, and changes made, since the October 2021 meeting. DSOD requests the Commission to approve the regulations.

This is an action item.

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