



<b>Division of Safety of Dams Enforcement Regulations (Action Item)</b>
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**Introduction**

One of the statutory responsibilities of the California Water Commission is to approve Department of Water Resources (DWR) rules and regulations that do not pertain to the management and administration of the DWR. DWR's Division of Safety of Dams (DSOD) is promulgating regulations that require the Commission's approval. The proposed regulations will establish a process for the Department to impose administrative civil penalties, reservoir restrictions, and other actions to ensure compliance with California's Dam Safety Program. The administrative process in the proposed regulations ensures a dam owner's due process rights are protected through clear, detailed, and consistent administrative enforcement and hearing processes. The proposed regulations also provide clear and objective methodologies regarding how DWR calculates civil penalties. Also, the proposed regulations specify the Department's process for requesting information from dam owners or suspected dam owners about the ownership, construction, operation, and maintenance of dams.

**Commission Decision**

At the October meeting, DSOD staff will present a formal request for Commission approval of the proposed regulations. If the Commission approves the regulations, DSOD will submit a final rulemaking package to the Office of Administrative Law. If the Commission does not approve the regulations, DSOD will modify the regulations and come back before the Commission at a later time.

**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 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, implements 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

Agenda Item: 10

Meeting Date: October 20, 2021

Page 2

provision of Water Code, Division 3, Part 1, or any approval, order, regulation, or requirement of the Department. Water Code section 6431 also 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. The Notice of Proposed Rulemaking for these regulations was published on May 21, 2021.

This agenda item is consistent with 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 October 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 April 2021 meeting. This is a formal request for Commission approval of DSOD's regulations.

This is an action item.

### **Contact**

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