



Informational Update on Dam Safety Regulations

Agenda Item at a Glance

- This agenda item covers proposed changes to the Department of Water Resources' Division of Safety of Dams' regulations related to dam safety, including how it collects fees and approves dam permits.
- This agenda item is for informational purposes only. It is relevant to those interested in, and impacted by, dam safety in California.
- At this meeting, the Commission will receive information from Department of Water Resources staff who will be presenting the agenda item. Tribes and the public will have an opportunity to make comments to the Commission before the Commission discusses this agenda item.

Introduction

The Department of Water Resources' (DWR) Division of Safety of Dams (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 under the California Water Code and California Code of Regulations.

DSOD seeks to modify existing dam safety regulations and add new dam safety regulations to California Code of Regulations, Title 23, Division 2, Chapter 1 (Title 23), as specified below. The modification and addition of dam safety regulations are necessary to align Title 23 of the California Code of Regulations with recent changes to the Water Code by Senate Bill 122 (effective July 10, 2023). Senate Bill 122 modified sections of the Water Code that relate to application fees that are to accompany construction, enlargement, alteration, repair, and removal applications submitted to DSOD for review and approval; to align with these changes, changes to existing regulations and the promulgation of new regulations are necessary. Modification to existing dam safety regulations and the promulgation of new regulations are also intended to add clarity, align with best practices, and formalize DSOD's practices.

Modifications to Article 2, *Applications for Construction, Enlargement, Repair, Alteration, or Removal of Dams or Reservoirs*, would:

- Clarify that application requirements apply to dam alterations, repairs, and removals to align with recent changes to Water Code section 6300,
- Clarify options for owners to remedy unlawfully constructed dams,
- Include minor edits/clarifications to existing regulations.

Modifications to Article 5, *Dams Owned by the Department of Water Resources*, would:

- Require DWR's State Water Project to cover DSOD labor costs incurred related to Director's Safety Review Boards (DSRB). DSRB are required for 19 dams owned by DWR and regulated by DSOD. These boards, comprised of engineers and geologists, independently report to DWR's Director regarding the safety of DWR-owned dams.
- Remove the option to allow a Federal Energy Regulatory Commission Board to be used in place of a DSRB.

Modifications to Article 6, *Inundation Maps*, would:

- Remove the requirement that a hard copy of a technical memorandum related to the modeling for inundation maps be submitted to DSOD,
- Include minor edits/clarifications to existing regulations.

Modifications to Article 7, *Administrative Enforcement*, would:

- Add an option for written civil administrative enforcement hearings,
- Clarify the process for initiating property liens against non-compliant dam owners.

The addition of Article 8, *Annual and Periodic Adjustments to Application Fees*, would:

- Provide a methodology to annually update the application fee schedule using Consumer Price Index as required by section 6300(e) of the Water Code,
- Provide a methodology to periodically update the application fee schedule to align with DSOD's incurred costs as required by section 6300(f) of the Water Code.

The addition of Article 9, *Application Fee Refunds*, would provide for instances when application fees could be refunded as allowed by section 6300(g) of the Water Code.

The addition of Article 10, *Phased Approvals*, would formalize a current DSOD practice of phasing application approvals for dam projects when requested by dam owners.

Background

One of the statutory responsibilities of the California Water Commission is to approve DWR rules and regulations not pertaining to the management and administration of the Department. While the Commission is not being asked to approve DSOD's regulations today, DSOD anticipates submitting of a rulemaking package to the Office of Administrative Law, which would trigger Commission approval. This briefing provides information in advance of that action.

This briefing will advance Goal Three of the Commission's 2020 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

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public participation in the rulemaking process.”

Meeting Overview

At the November meeting, Shawn Jones, Assistant Division Manager with the Division of Safety of Dams at DWR, will present the proposed modifications and additions to dam safety regulations as described above. Interested parties will be given an opportunity to comment on this item. Commissioners will then have an opportunity to consider comments, ask questions, and offer their own comments regarding DSOD’s anticipated submittal of a rulemaking package to the Office of Administrative Law.

This is an informational item.

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