

STATE OF CALIFORNIA
CALIFORNIA NATURAL RESOURCES AGENCY
CALIFORNIA WATER COMMISSION

RESOLUTION NUMBER: 2021-07

RESOLUTION TO APPROVE DAM SAFETY PROGRAM ENFORCEMENT
REGULATIONS

WHEREAS, the Department of Water Resources (Department or DWR), through its Division of Safety of Dams (DSOD), implements Part 1 of Division 3 of the Water Code, (Dam Safety Program). The Dam Safety Program was established in 1929, and regulates approximately 1,250 jurisdictional dams located throughout California;

WHEREAS, Senate Bill 92 (SB 92), signed by Governor Brown on June 27, 2017, provided additional enforcement authority for violations of Dam Safety Program requirements. Specifically, SB 92 authorizes the Department to impose property liens and reservoir restrictions, and to assess civil penalties of up to \$1,000 per day, per violation, on dam owners that fail to comply with any provision of Water Code, Division 3, Part 1;

WHEREAS, SB 92 authorizes the Department to prepare Emergency Action Plans (EAPs) for dams and recover the costs from the dam owner where the owner fails to prepare an EAP as required by law;

WHEREAS, the Department developed regulations that provide a procedure for undertaking administrative enforcement actions for non-compliance with Water Code, Division 3, Part 1;

WHEREAS, these regulations establish procedures for pursuing administrative enforcement actions, including conducting administrative hearings, and provide a methodology for calculating administrative civil penalties. These provisions are included in two new articles (Articles 7 and 7.1), which are proposed to be added to Title 23 of the California Code of Regulations, Division 2, Chapter 1;

WHEREAS, the proposed regulations also specify the Department's authority to request information from dam owners or suspected dam owners about the ownership, construction, operation, and maintenance of dams, as part of the overall implementation of the regulatory program. This regulation is proposed to be added to Title 23 of the California Code of Regulations, Division 2, Chapter 1, Article 1;

WHEREAS, the administrative enforcement regulations and the information-request regulation described above will collectively be referred to as "Dam Safety Program Enforcement Regulations";

WHEREAS, on May 21, 2021, the Notice of Public Availability for the Dam Safety Program Enforcement Regulations was published in the California Regulatory Notice Register, posted on the Department's website, and mailed to dam owners and other interested persons;

WHEREAS, the Department held a public hearing on July 12, 2021, and accepted written comments through July 15, 2021, providing a 55-day public comment period;

WHEREAS, the Department received four written comment letters and received comments from four commenters during the public hearing. The Department made revisions to the text of the Dam Safety Program Enforcement Regulations that are sufficiently related to the text of the regulations that was initially proposed and noticed;

WHEREAS, on August 19, 2021, the Department circulated the modified text of the Dam Safety Enforcement Regulations and provided 19 days for public comment, pursuant to the California Administrative Procedure Act. The Department received one comment letter but made no further revisions to the Dam Safety Program Enforcement Regulations (as modified) after the comment period;

WHEREAS, Water Code section 161 authorizes the California Water Commission to approve rules and regulations of the Department;

WHEREAS, the Dam Safety Program Enforcement Regulations are hereby presented to the California Water Commission for consideration and approval; and

WHEREAS, the approval of the Dam Safety Enforcement Regulations is exempt from the California Environmental Quality Act (CEQA) because adoption of these regulations is an action by the Department to enforce Water Code Division 3, Part 1, and the information-collection process will not result in a major disturbance to an environmental resource and will be used strictly for information gathering or part of a study leading up to an action that the Department has not yet approved or adopted. (14 CCR §§ 15321, 15306)

NOW, THEREFORE, BE IT RESOLVED that the California Water Commission:

Approved the Dam Safety Enforcement Regulations at its meeting on October 20, 2021.

Signed:

Teresa Alvarado

Teresa Alvarado, Chair
California Water Commission

10/24/2021

Date

Attest:

Joseph Yun

Joseph R. Yun, Executive Officer
California Water Commission

10/25/2021

Date