

DEPARTMENT OF WATER RESOURCES

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STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

Notice of Proposed Rulemaking

Add, Amend, Repeal Sections in Articles 2, 5, 6, and 7

Add Articles 8, 9, and 10

Chapter 1, Division 2, Title 23, California Code of Regulations

Publication Date: November 14, 2025

The Department of Water Resources' (Department) Division of Safety of Dams (DSOD) implements the regulatory program established in Division 3, Part 1, of the Water Code. To implement this program, the Department has adopted regulations that govern several aspects of the program. Division 3, Part 1 of the Water Code and the Department's regulations comprise what is commonly referred to as the "Dam Safety Program." The Department seeks to add, amend, and repeal dam safety regulations to align with recent changes to the Water Code and to update and add clarity to DSOD's practices.

The Department will conduct a public hearing at the time and in the manner noted below, to receive comments on the proposed rulemaking.

Public Hearing

Interested members of the public may present comments on the proposed regulations orally or in writing at the hearing. The hearing will be held in accordance with the requirements in Government Code section 11346.8, and the hearing details are as follows:

Date: Friday, January 9, 2025
Time: 10:00 a.m.
Location: 2720 Gateway Oaks, Suite 300
Sacramento, California 95833

The hearing will commence at 10:00 a.m. and conclude after the last speaker has been heard. Attendees, especially those intending to provide oral comments at the hearing, are encouraged to arrive no later than 10:00 a.m. in the event few or no commenters testify and/or the testimony that is given is brief.

Written Comment Period

Interested members of the public, or their authorized representatives, may submit written comments relevant to the proposed regulatory action to the Department. All written comments must be received by the Department no later than **5:00 p.m. on Friday, January 9, 2026**. Comments received after the end of the written comment period are considered untimely. The Department may, but is not required to, respond to untimely comments. Interested members of the public may submit written comments by postal mail or email, and to be considered by the Department, timely written comments must be addressed to the following:

Email:

Shawn Jones, Assistant Manager
Division of Safety of Dams
Shawn.Jones@water.ca.gov

Postal Mail:

Shawn Jones, Assistant Manager
Division of Safety of Dams
2720 Gateway Oaks, Suite 300
Sacramento, California 95833

Please note that under the California Public Records Act (Government Code, § 7920.000 et seq.), written and oral comments, attachments, and associated contact information (e.g. address, phone, email) become part of the public record and can be released to the public upon request.

Authority and Reference

Authority: Water Code section 6078 authorizes the Department to adopt and revise these regulations. Water Code section 6300, subdivision (f) provides authority for the adoption of regulations that relate to adjusting application fees. Water Code section 6300, subdivision (g) also provides authority for the adoption of regulations that relate to application fee refunds.

Reference: The proposed regulatory action will implement, interpret, and/or make specific Water Code sections 6005, 6056, 6075, 6077, 6160, 6161, 6200-6267, 6300-6305, 6355, 6357, 6426-6432, and 6470.

Informative Digest of Proposed Action and Policy Statement Overview

The Department's DSOD provides regulatory oversight of approximately 1,230 dams, owned by approximately 630 different dam owners, to prevent dam failure, safeguard life, and protect property. Dams provide multiple benefits to the State in areas associated with power production, water supply, agricultural use, industrial use, flood control, recreation, and the environment. Given the critical role that dams contribute to the welfare of the State and considering that millions of people statewide live near or recreate at reservoirs, the consequences of a dam failure may be significant with respect to life loss, economic loss, and adverse environmental impacts.

Summary of Existing Laws and Regulations

The Department's DSOD implements Division 3, Part 1 of the Water Code. To implement these statutes, the Department has adopted regulations that govern several aspects of the Dam Safety Program, including dam breach inundation map requirements, annual fees, and enforcement. These regulations are contained in Title 23 of the California Code of Regulations, Division 2, Chapter 1 (Title 23).

Senate Bill 122 changes to the Water Code

Senate Bill 122, effective July 10, 2023, made amendments to Division 3, Part 1 of the Water Code that are associated with the proposed rulemaking:

- Made specific that application filing fees are required for the construction of new dams and for the enlargement, alteration, repair, and removal of existing dams.
- Made specific what application related project costs are to be used in determining the application filing fee.

- Requires that the Department annually adjust the application fee schedule based on changes in the Consumer Price Index for goods and services.
- Requires that the Department adopt, by regulation, a process to adjust the application fee schedule to ensure that filing fees cover the Department's costs related to applications.
- Allows the Department to adopt, by regulation, a methodology for refunding application fees.

Statutes and regulations related to this proposed rulemaking

Water Code, Division 3, Part 1, Chapter 4, Article 6 requires that dam owner submit dam breach inundation maps to the Department for review and approval. Title 23, Article 6 provides clarity and direction regarding preparation of inundation maps required to be submitted to the Department for review and approval.

Water Code, Division 3, Part 1, Chapter 5, Articles 1 and 2 requires that an application be submitted to the Department for the construction of a new dam or reservoir or for the enlargement, alteration, repair, or removal of an existing dam or reservoir. Title 23, Article 2 provides additional clarity and direction regarding applications submitted to the Department for review and approval.

Water Code, Division 3, Part 1, Chapter 6 requires that an application fee accompany an application submitted to the Department for the construction of a new dam or reservoir, or for the enlargement, alteration, repair, or removal of an existing dam or reservoir.

Water Code, Division 3, Part 1, Chapter 8 provides the Department with avenues and authorities to address non-compliant dam owners. Title 23, Article 7 provides a process for administrative enforcement actions that the Department may take to ensure compliance with Water Code, Division 3, Part 1 and implementing regulations.

Effect of Proposed Rulemaking

The amendment and repeal of sections of Title 23, Article 2 will align this article with changes made to the Water Code by Senate Bill 122. Additions to Title 23, Article 2 will provide clarity as to how owners of unlawfully constructed dams, which are jurisdictional sized dams constructed without the Department's approval or oversight, can address a dam's unlawful status.

The amendments and additions to Title 23, Article 5 are to update and clarify the Departments practices regarding the retention of boards of consultants to report to the Department's Director as to the safety of dams owned by the Department and regulated by DSOD. The board's purpose is to ensure that Department dams are receiving the same regulatory oversight as other jurisdictional dams. The amendments would remove the Department's option to utilize a Federal Energy Regulatory Commission's Part 12D board to fulfill this requirement. The addition to this article would specify that costs associated with DSOD's participation in these boards be funded by the Department's State Water Project as these costs are solely associated with Department dams.

Amendments to Title 23, Article 6 will provide additional clarity regarding inundation map requirements and to remove a requirement that dam owners must submit a hard copy of technical report detailing how the inundation map was prepared.

The amendments and additions to Title 23, Article 7 will provide new and clarify existing processes for civil administrative enforcement actions against dam owners, who DSOD determines are non-compliant with dam safety requirements. Dam owners who wish to contest an administrative complaint issued by the Department have the opportunity for a hearing; currently, hearings can be held at the Office of Administrative Hearings or before a Department presiding officer, as determined by a neutral Department employee. Changes to this article would include: 1) adding a paper hearing option and 2) clarifying the process to impose property liens. The paper hearing process would be similar to the in-person DWR presiding officer hearing option but would be decided based on written submittals from the parties, which could save the Department and the dam owner time, labor, and travel costs.

The addition of Title 23, Article 8 will: 1) provide a process for annually adjusting the application fee schedule set in section 6300 of the Water Code for changes in the Consumer Price Index for goods and services and 2) to provide a process to adjust the application fee schedule to ensure that filing fees cover the Department's costs related to applications.

The addition of Title 23, Article 9 will clearly state the circumstances under which the Department will consider refunding application fees and what is required of a dam owner when requesting a refund.

The addition of Title 23, Article 10 would formalize DSOD's long-standing practice of approving phases of an application for a dam project. Phased approvals allow portions of application-related work with completed designs to proceed to construction prior to the application being approved in full. Prior to starting any work, the dam owner requesting phased approval would have to demonstrate that the California Environmental Quality Act has been satisfied and demonstrate evidence of water rights for new dam construction or dam enlargements.

Objectives and Benefits of the Proposed Regulations

The overall objective of the proposed regulations is to align Title 23 with recent changes to the Water Code by Senate Bill 122 and to update and add clarity to DSOD's practices. These amendments will clarify how owners of unlawfully constructed jurisdictional sized dams can address the dam's unlawful status. These amendments will also detail the phased approval process that could allow portions of a project to move forward into construction earlier, saving the dam owner time and money. These amendments to the Dam Safety Program regulations will lead to safer dams and will safeguard life and property from dam failures.

Differences from Comparable Federal Regulations

The Department has determined that there are no existing, comparable federal regulations.

Compatibility with Existing State Regulations

The Department has conducted an evaluation and has found that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Other Matters Prescribed by Statute

The Department's implementation of the Dam Safety Program is prescribed by Division 3, Part 1 of the Water Code. Other bodies of law that govern the Department include, but are not limited

to, the Government and Public Resources Codes.

Disclosures Regarding Proposed Action

Mandate on local agencies and school districts

The Department has determined that the proposed regulations will not impose a mandate on local agencies or school districts that is required to be reimbursed under Division 4, Part 7 (commencing with section 17500) of the Government Code.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630

None

Costs or savings to state agencies

Approximately 4% of the dams regulated by DSOD are owned by state entities. The Department estimates that costs incurred by state agencies that own jurisdiction dams regulated by DSOD to see a cumulative increase of approximately \$250,000 related to application fees the first year the regulations are adopted. It is expected that this will increase annually as application fees are adjusted annually based on changes to the Consumer Price Index for goods and services, which has historically increased about 3% annually on average. These costs only factor in if these entities file an application for the construction of a new dam or reservoir or for the enlargement, alteration, repair, or removal of an existing dam or reservoir.

Non-discretionary costs imposed on or savings by local agencies.

Approximately 49% of the dams regulated by DSOD are owned by local agencies (cities, counties, districts, and water agencies/authorities). The Department estimates that costs incurred by local agencies that own jurisdiction dams regulated by DSOD to see a cumulative increase of approximately \$3.1 million related to application fees the first year the regulations are adopted. It is expected that this will increase annually as application fees are adjusted annually based on changes to the Consumer Price Index for goods and services, which has historically increased about 3% annually on average. These costs only factor in if these entities file an application for the construction of a new dam or reservoir or for the enlargement, alteration, repair, or removal of an existing dam or reservoir.

Estimated cost or savings in federal funding to the state

The Department has determined that the regulations will not result in any costs or savings in federal funding to the state.

Housing Costs

The Department has made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Adverse Economic Impacts

The Department has made an initial determination that the proposed regulatory action will not have a significant, statewide, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Statement of Results of Economic Impact Assessment

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, the expansion of businesses in California, or benefits to worker safety. As stated above, the proposed regulations will benefit the health and welfare of California residents and the state's environment by safeguarding life and property from dam failures.

Cost Impacts on a Representative Person or Business

Approximately 47% of the dams regulated by DSOD are owned by private entities (individuals or private businesses). The Department estimates that costs incurred by private entities that own jurisdiction dams regulated by DSOD to see a cumulative increase of approximately \$3.0 million related to application fees the first year the regulations are adopted. It is expected that this will increase annually as application fees are adjusted annually based on changes to the Consumer Price Index for goods and services, which has historically increased about 3% annually on average. The cost impacts to a representative person or business are unknown as these costs only factor in if these entities file an application for the construction of a new dam or reservoir or for the enlargement, alteration, repair, or removal of an existing dam or reservoir. Also, the cost impacts will be specific to the work detailed in the application which is unknown. These costs only factor in if these entities file an application for the construction of a new dam or reservoir or for the enlargement, alteration, repair, or removal of an existing dam or reservoir.

Business Report Requirements

There are no reporting requirements required by these regulations.

Effect on Small Business

The Department estimates that approximately 85 jurisdictional dams are owned by small businesses. The Department estimates that costs incurred by private entities that own jurisdiction dams regulated by DSOD to see an increase of approximately \$450,000 related to application fees the first year the regulations are adopted. It is expected that this will increase annually as application fees are adjusted annually based on changes to the Consumer Price Index for goods and services, which has historically increased about 3% annually on average.

Alternatives Statement

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department:

- would be more effective in carrying out the purpose for which the action is proposed,

- would be as effective and less burdensome to affected private persons than the proposed action, or
- would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

Department Contact Persons

Questions regarding the proposed regulatory action may be directed to:

Contact Person:

Shawn Jones, Assistant Chief
Division of Safety of Dams
2720 Gateway Oaks Drive, Suite 300
Sacramento, CA 95833
Shawn.Jones@water.ca.gov
(916) 565-7802

Backup Contact Person

Peter Thyberg, Senior Staff Counsel
Peter.Thyberg@water.ca.gov
(916) 820-7564

Availability of Proposed Regulations, Initial Statement of Reasons, and Rulemaking File

The Department has prepared an initial statement of reasons (ISOR) for the proposed regulations. This Notice, the ISOR, the express terms of the proposed regulation, and all information upon which the proposed regulations are based are available on the Department's website at <http://www.water.ca.gov/damsafety>. In addition, documents may be obtained by making a request to the Department contact person listed above.

Availability of Modified Text of the Regulations

If the Department makes modifications to the text of the regulations that are sufficiently related to the originally-proposed text, the Department will make the modified text available (with changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. The modified text will be posted on the Department's website at <http://www.water.ca.gov/damsafety>.

Final Statement of Reasons and other Documents related to the Proposed Regulations

All subsequent regulatory documents, including the final statement of reasons, when completed, will be made available at www.water.ca.gov/damsafety or by requesting materials from the contact person listed in this notice.