

Division 20 Rulemaking: Dam Safety

OREGON



WATER RESOURCES
DEPARTMENT

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Presentation Overview

- HB 2085
- Jurisdiction
- Changes to Dam Safety Program & Rules
- Rulemaking Timeline
- Public Comments
- Alternatives & Recommendation
- Acknowledgments



Modernizing Oregon's Dam Safety Program

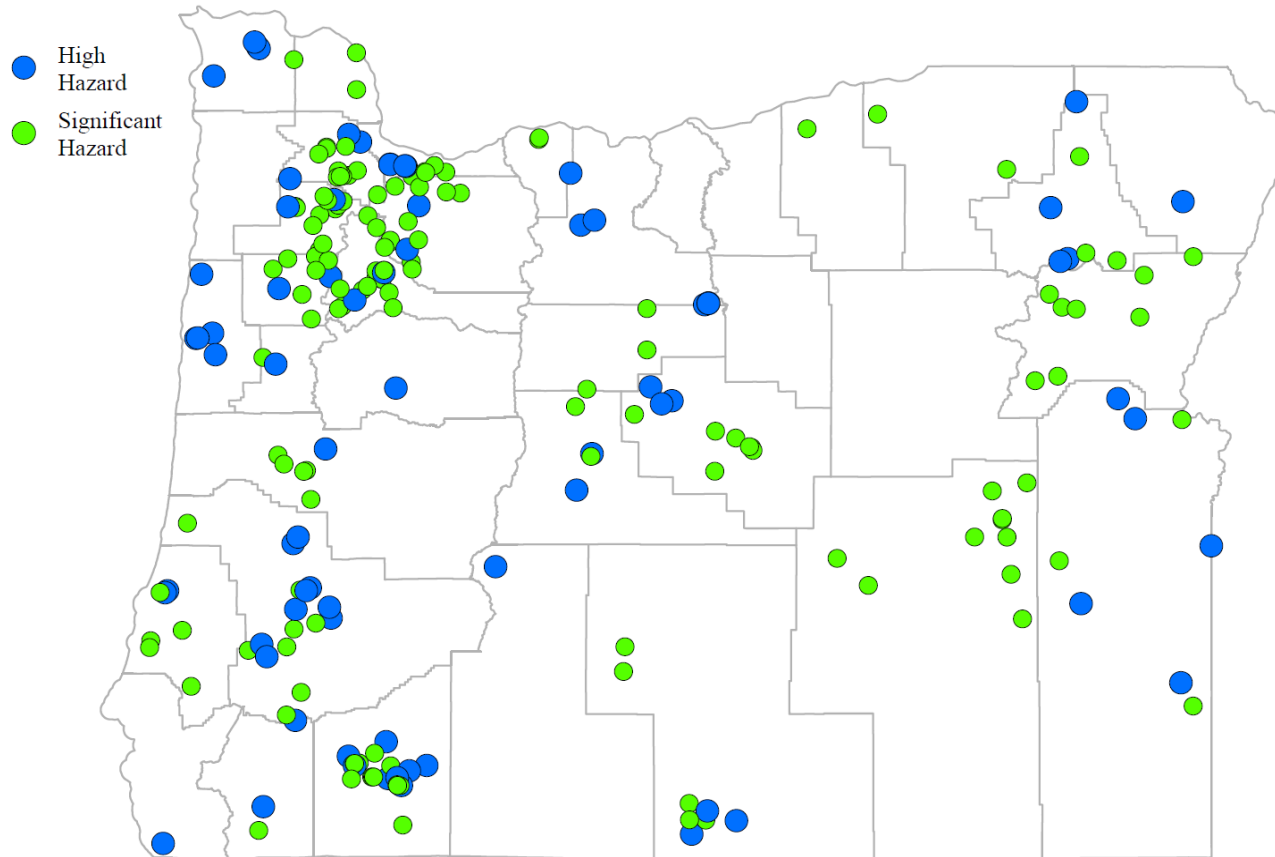
- Tools to address maintenance & safety issues
- Protect people, property, & infrastructure
- Cooperative plan and timeframe, informal resolution, formal corrective action, injunction, and maintenance action
- General authorities, dam emergency, jurisdiction, modifications, owner responsibilities, safe removal, & civil penalties
- Operative July 1, 2020

Dams Subject to Oregon's Dam Safety Program

- Dams at least 10 feet high and storing over 3 million gallons (9.2 acre feet)
- Statutes apply to dams storing water and wastewater
- Limited role for Federal dams

~ 950 State Regulated Dams

State Regulated High and Significant Hazard Dams as of January 2020



Dam Safety Program after HB 2085 Rulemaking

- Designs for New Dams
- Hazard Rating
- Dam Inspections
- Condition for High & Significant Hazard Dams
- Corrective & Maintenance Actions
- Modification of Existing Dams
- Removal of Dams
- Incidence Response & Emergency Planning
- Civil Penalties

Rule Changes

Designs for New Dams

- Updates rules for reviewing designs of new construction and adds “to increase dam height”
- Design Review Fee based on actual review time and a cap on the maximum amount is provided

Hazard Rating

- Clarify existing rules to better reflect current technical standards

Dam Inspections

- Identify process for communicating with a dam owner through a written inspection summary

Condition for High & Significant Hazard Dams

- Specify the conditions for which the terms “Unsafe” and “Potentially Unsafe” likely apply

Corrective & Maintenance Actions

- Clarify actions to be taken when necessary corrective and maintenance actions are unaddressed
- Updated to be consistent with the Administrative Procedures Act (APA)
- Describe the process for working cooperatively with a dam owner or issuing a Proposed Final Order
- Describe the process for when a dam owner requests a hearing

Rule Changes

Modifications to Existing Dams

- Clarify requirements for plans and specifications to be approved
- Specifies changes that are considered modifications
- Provide guidance on when water can be impounded during construction work

Removal of Dams

- Outline the process for dam removal and plan
- Department review: may require changes to the plans

Incidence Response & Emergency Planning

- Clarify specific emergency actions to be taken

Civil Penalties

- Outline the schedule for assessing civil penalties
- Provide a process to remit all or a portion of civil penalties

Rulemaking Process

Implementation of House Bill 2085 (2019)

RAC Meetings

October – January

Notice and Public Comment

March 2020 & May 2020

Rules Hearing

May 28, 2020

Public Comments

| Name | Organization |
|------------------------------------|--------------------------------------------------------|
| April Snell & Mary Anne Cooper | Oregon Water Resources Congress/Oregon Farm Bureau |
| Alison Davis | American Council of Engineering Companies of Oregon |
| Genice Rabe (submitted 2 comments) | Waldensee, LLC |
| Rebecca Gladstone & Peggy Lynch | League of Women Voters of Oregon |
| Scott Porter | Washington County Emergency Management |
| Justin Green | Oregon Department of Environmental Quality |
| Jim McCarthy | WaterWatch of Oregon |

Response to Comments

Changes to Proposed Rules – Refer to Att. 6

Minor edits to:

- Grammar
- Punctuation
- Capitalization
- Citations

Substantive edits to:

- Improve clarity and readability
- Align rules with statutory language

Substantive Changes – Refer to Att. 8

- 0020 (Definitions)
- 0035 (Min Engineering Req)
- 0042 (Min Design Req: Spillways)
- 0043 (Design Req: Conduits)
- 0065 (Plan Req: Construct Admin)
- 0068 (Plan Req: Op & Maint)
- 0070 (Sub & Notice)
- 0100 (Hazard Rating)
- 0120 (Dam Breach Inundation Analysis)
- 0140 (Mod of Dams)
- 0160 (Removal)
- 0180 (Provide Contact Info)
- 0250 (Dam Maint)
- 0260 (Inspect)
- 0310 (Address Maint Actions)
- 0340 (Unsafe Conditions)
- 0400 (Emergency Action Plan - EAP)
- ~~0410 (EAP Significant Hazard)~~
- 0420 (Action to Prevent Failure)
- 0460 (Final Order/Hearing)
- 0600 (Civil Penalties)

Alternatives

1. Adopt the final proposed amended rules OAR Chapter 690, Division 20 as contained in Attachment 9.
2. Modify and adopt the proposed amended rules in Attachment 9 for OAR Chapter 690, Division 20.
3. Direct Department staff to do further work on the rules and return to a future Commission meeting.

Recommendation

The Director recommends Alternative 1, to adopt the final proposed amended rules OAR Chapter 690, Division 20 as contained in Attachment 9

Acknowledgements & Questions

Thank you!

- Legislature and Governor
- RAC
- ASDSO
- FEMA
- Department
- Policy Manager



ACTION ITEM: Vote

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Recommendation

The Director recommends Alternative 1, to adopt the final proposed amended rules OAR Chapter 690, Division 20 as contained in Attachment 9