

WAC 173-175-620 Enforcement. (1) In enforcement of this chapter, the department may impose such sanctions as appropriate under authorities vested in it, including but not limited to, the issuance of regulatory orders under RCW 86.16.081 and 43.27A.190 and civil penalties under RCW 86.16.081 and 90.03.600.

(2) Any dam which is found to be under construction or recently constructed without prior approval of the plans and specifications is in violation of RCW 90.03.350 and will be presumed to be a public nuisance. The owner will not be allowed to fill the reservoir or continue to operate the reservoir until the structural integrity and safety of the facility can be demonstrated to the satisfaction of the department. In addition:

(a) Regulatory orders may be issued to enforce the restriction of reservoir filling and fines may be levied at one hundred to five thousand dollars per day;

(b) Owners are required to submit as-built drawings and all available documentation describing the manner in which the dam or portion thereof was constructed;

(c) If the structural integrity and safety of a dam project cannot be demonstrated or confirmed to the satisfaction of the department, the owner shall not commence or resume normal operation of the project until all outstanding issues or problems are resolved to the satisfaction of the department. To accomplish the above, the department may:

(i) Order the outlet works to remain fully open and not allow filling of the reservoir;

(ii) Restrict reservoir water levels or reservoir operation;

(iii) Order the breaching of the impounding barrier;

(iv) Take other measures as appropriate to reasonably assure safety to life and property.

(d) If, in the opinion of the department, the owner is unwilling or incapable of resolving the outstanding safety issues in a timely manner, the department may take action to have the dam abated as prescribed by law under RCW 90.03.350.

(3)(a) In order to correct safety deficiencies and exigency conditions as identified by the department on existing dams, owners are required to take actions as prescribed by the department to preserve the structural stability and integrity of the project and attain levels of safety in accordance with accepted engineering practice.

(b) If the owner does not take action to correct safety issues in a timely manner, regulatory orders may be issued to require modifications, and to restrict the filling of the reservoir until all outstanding issues or problems are resolved to the satisfaction of the department.

(c) If the owner continues to be unwilling or incapable of resolving the outstanding safety issues, the department may take action to have the dam abated as prescribed by law under RCW 90.03.350.

[Statutory Authority: RCW 43.21A.064, 43.21A.080, 86.16.061, 90.03.350 and [90.03].470. WSR 04-16-122 (Order 03-08), § 173-175-620, filed 8/4/04, effective 9/4/04. Statutory Authority: RCW 43.21A.064, [43.21A.]080 and 86.16.061. WSR 92-12-055 (Order 91-17), § 173-175-620, filed 6/1/92, effective 7/2/92.]