

Comments on
Vermont Public Utility Commission
Rule 4.500 Safety of Hydroelectric Dams

by

Vermont Natural Resources Council
Trout Unlimited – Vermont Council

Thank you for the opportunity to comment before the Legislative Committee on Administration Rules (LCAR). The Vermont Natural Resources Council and the Vermont Council of Trout Unlimited have been following the Public Utility Commission (Commission) proceeding to amend VPUC Rule 4.500 (Case No. 22-4420- Rule) to update the categories and criteria used to determine hazard potential for hydroelectric dams under the Commission's jurisdiction. The proposed changes, which we support, will bring sections of the rule related to hazard classification up to standards adopted by the Department of Environmental Conservation (DEC) Dam Safety Program (DSP) in its prior 2020 rulemaking.

However, as we noted in our January 6, 2023 comments submitted to the Commission, the rule does not address other issues related to dam safety, specifically the frequency which dams in different hazard classes must be inspected. The Commission addresses this point in its Responsiveness Summary, noting that it is waiting for the DEC Dam Safety Program (DSP) to complete a second phase of rulemaking that will address additional safety-related issues. Once the DSP rule revisions are adopted, the Commission will undertake a second rulemaking to update Rule 4.500 and address inspection frequencies and requirements.

With this, the current process for improved dam safety appears to be two-step cycle: DSP updates its rulemaking, then PUC updates rulemaking to match DSP, and the process begins again. This highlights the inefficiencies of the split jurisdiction of dam oversight between the Commission and DSP and raises concern that the inefficiency has the potential to impact public safety. That said, our organizations are engaged in the current DSP rulemaking, and we look forward to participating again with the Commission when Rule 4.500 is amended.

While not within the purview of LCAR, our organizations propose a simple amendment to 10 V.S.A. Chapter 43 to improve public safety and government efficiency. This chapter addresses dam-related issues, including inventory, permitting and inspection. In § 1081, the statute assigns jurisdiction of state-regulated non-hydroelectric dams to DEC DSP, and hydroelectric dams to the Commission.

With that split DEC DSP is responsible for 418 dams that serve many purposes (e.g., water supply, recreation, snowmaking, flood control) and the Commission for 22 hydroelectric dams. While DSP has licensed civil engineers and trained technicians on staff, the Commission does not and must rely on outside consultants to provide dam safety expertise. There is no reason the qualified DSP engineers could not oversee dam safety at state-regulated hydroelectric facilities currently under Commission jurisdiction. Further, having responsibility for dam safety in a single program DSP, would improve efficiency, the parallel rulemaking efforts being a prime example.

In closing, we believe that a future transfer of jurisdiction of the 22 PUC dams to the DEC Dam Safety Program is needed for improved public safety and efficiency of state government.

Thank you for the opportunity to comment.

Sincerely,

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