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January 2, 2024

Performance Audit  
Recommendations and  
Corrective Actions for Audit:  
22-02

Department of Environmental  
Conservation's Dam Safety  
Program:

Some High Hazard Dams, Including  
State-Owned, Linger in Poor Condition  
for Years, Risking Human Lives

Dated: February 11, 2022

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# Overview

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The State Auditor's Office (SAO) makes recommendations designed to improve the operations of state government. For our work to produce benefits, auditees or the General Assembly must implement these recommendations, although we cannot require them to do so. Nevertheless, a measure of the quality and persuasiveness of our performance audits is the extent to which these recommendations are accepted and acted upon. The greater the number of recommendations that are implemented, the more benefit will be derived from our audit work.

In 2010, the SAO began to follow-up on the recommendations issued in our performance audits. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we perform our follow-up activities one and three years after the calendar year in which the audit report is issued. Our annual performance reports summarize whether we are meeting our recommendation implementation targets.

<http://auditor.vermont.gov/about-us/strategic-plans-and-performance-reports>

This report addresses the requirements of Act 155 (2012) to post the results of our recommendation follow-up work on our website. The report does not include follow-up on recommendations issued as part of the state's financial statement audit and the federally mandated Single Audit, which are performed by a contractor. However, our current contract for this work requires the contractor to provide the results of its recommendation follow-up.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
1	Adopt rules the Department deems essential, using the emergency rulemaking process if necessary, to compel dam owners, including state dam owners, whose dams are in poor condition to undertake repair work within a specified timeframe and the procedures needed to enforce those rules.	2023	Not Implemented	While DEC has held some public meetings on new rules, DEC has not pre-filed the proposed rules with the Interagency Committee on Administrative Rules, which starts the rule adoption process. DEC was originally required to have the rules adopted by July 2022 but received an extension from the Legislature to July 2024. DEC now intends to ask the Legislature to move the rule adoption date requirement from July 2024 to July 2025 due to the lost time from the July flooding.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
2	Establish and implement a time limit for finalizing and providing DEC inspection reports to dam owners.	2023	Partially Implemented	Current DEC rules require dam owners who hire an engineer to inspect their dam to furnish an inspection report to DEC within 45 days. DEC reports they adopted this same 45-day time limit when providing DEC inspection reports to dam owners. However, DEC but has not formally incorporated the time limit into any regulation, policy, or procedure document.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
3	Maintain points of contact for state-owned dams. For state-owned dams the DEC determines to be in poor condition, the Commissioner should immediately notify the Agency Secretary or Department Commissioner who is responsible for the dam.	2023	Partially Implemented	DEC provided an email showing that the Commissioners of Fish and Wildlife and Forest Parts & Recreation were notified about relevant dam business. However, DEC recognizes that a more organized Agency-wide communication plan/strategy is needed for dam safety matters. DEC also needs to establish points of contact for dams owned by the Agency of Transportation.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
4	Direct DSP staff to maintain a dam inventory that includes complete, up-to-date, and accurate condition information.	2023	Partially Implemented	DEC created a new Vermont Dam Inventory and it made public in April 2023. This inventory is still a work in progress, and it contains condition information for some dams.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
5	Update the dam inventory to ensure that dams have the correct hazard classification with priority given to dams currently classified as significant hazard potential.	2023	Partially Implemented	This is an ongoing project. DEC has updated the hazard potential classification for some dams, but DEC anticipates it will take several years for them to review all the dams.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
6	Record inspection dates in the inventory as they occur and assess whether dams are being inspected in a timely manner.	2023	Partially Implemented	DEC reports they strive to maintain current inspection information in the Vermont Dam Inventory. However, SAO identified some inspections completed in June 2023 that had not been recorded in the inventory until several months later. DEC noted that immediately following the July 2023 floods they performed nearly 400 rapid assessments of damage to dams through an emergency management assistance compact with other states. DEC also noted that because of concentrated outreach to dam owners after the July 2023 floods they have been able to reduce the number of dams in the inventory for which DEC had ownership questions or issues. DEC indicated that identifying current dam owners will aid them in their effort to inspect dams in a timely manner moving forward.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
7	Assess the staffing levels of the Dam Safety Program and identify what the appropriate staffing levels should be.	2023	Partially Implemented	While DSP has added additional staff, they are not permanent positions. DSP plans to ask the Legislature to make these positions permanent and is in the process of assessing the necessary staffing levels.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
8	Develop a process to ensure that requiring dam owners to pay for periodic inspections is done in a fair and consistent manner.	2023	Not Implemented	DSP has not addressed this recommendation but has plans to do so in the future.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
9	Obtain dam condition information annually from the PUC.	2023	Implemented	The annual report from the PUC now contains condition information.
		No further follow-up is required because the recommendation was implemented.		

## Other Matters

	Follow-Up Year	Status	SAO Review Comments
<p>In the Other Matters section of the original audit report, we noted that the Public Utility Commission (PUC) had a similar role to the DSP with respect to regulating dams. However, the PUC did not use the same definition for hazard potential, meaning it was difficult to know how many dams posed a threat to human life. In addition, PUC uses a different inspection schedule; a high hazard dam that DEC would inspect every two years would only be inspected every five years by PUC.</p>	2023	Partially Implemented	<p>The PUC updated the hazard potential definitions in their rules to align with the definitions in DEC's rules. PUC is waiting for DEC to adopt additional rules that are intended to provide detailed information about different types of inspections and at what frequency those inspections should occur before the PUC goes through the rulemaking process to change the inspection frequencies for the types of inspections that PUC requires in their rules. DEC was originally required to have the rules adopted by July 2022 but received an extension from the Legislature to July 2024. DEC now intends to ask the Legislature to move the rule adoption date requirement from July 2024 to July 2025 due to the lost time from the July flooding.</p>
	2025		SAO will provide a status update on this issue in 2025.