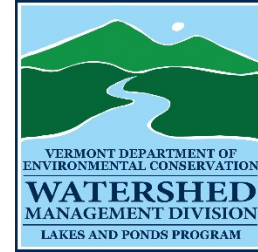


Frequently Asked Questions



What has the Great Hosmer Pond Task Force accomplished?

The 2016 Great Hosmer Pond Task Force met three times (July 20, August 10, October 25) in hopes of developing a schedule that would reduce conflicts of use between scullers and motorboaters. When sculls are on the water, safe motorboat operation is limited. Operators of high speed motorboats do not have a dependable time when they can use the waters, which creates conflict. One outcome of the three meetings was recognition that there needed to be clearer communications about when the lake was available to high speed motorboaters.

What is the purpose of current stakeholder discussions hosted by the DEC?

The goal of current discussions is to explore whether revisions to the “Use of Public Water Rules” could help to reduce conflicts between users. A revision to the Rules would supplement the work of the Task Force and not replace the work of the Task Force.

Why consider rulemaking?

General advantages of a rule: 1. Protect and preserve existing uses; 2. Reduce conflict; 3. Enforceable by law enforcement officers (most often the state game warden); and 4. Maximize everyone’s enjoyment by providing more predictability of when and where uses will occur. Note: voluntary agreements are not enforceable by law enforcement officers.

What is the timeline for the rulemaking process?

Rulemaking requires five-to-six months. The Department of Environmental Conservation (DEC) is able to stop the process at any time if the revised rule is deemed unnecessary. The Department is also able to initiate the process upon a determination that a rule change is necessary to fulfill the Department’s statutory obligations. Typical timeline:

Month 1: Stakeholder meetings and DEC internal approvals

Month 2: Final proposed draft rule submitted to the Intergovernmental Committee on Administrative Rules (ICAR)

Month 3: Public meeting(s) held, formal comment period is held, Department responds in writing to public comments received, and changes can be made to the proposed rule in response to comments

Month 4: Final proposed rule reviewed by the Legislative Committee on Administrative Rules (LCAR)

Month 5: Effective date

What authority does the DEC have to create a rule?

Per 10 V.S.A. § 1424 (a)(1), the DEC can regulate a “use of public water rule” by: 1. Defining areas on public waters wherein certain uses may be conducted; 2. Defining the uses which may be conducted in the defined areas; 3. Regulating the conduct in these areas, including the size of motors allowed, size of boats allowed, allowable speeds for boats, and prohibiting the use of motors or houseboats; and 4. Regulating the time various uses may be conducted.

What factors are considered in the rulemaking process?

Per 10 V.S.A. § 1424(b), in establishing a rule, the DEC shall consider:

1. Size and flow of navigable waters; 2. Predominant use of adjacent lands; 3. Depth of the water; 4. Predominant use of the waters prior to regulation; 5. Uses for which the water is adaptable; 6.

Availability of fishing, boating, and bathing facilities; and 7. Scenic beauty and recreational uses of the area.

What are the DEC's responsibilities in the rulemaking process?

Both statute and rule encourage the DEC to protect and preserve all existing uses and address conflicts using the least restrictive approach practicable.

Per 10 V.S.A. § 1424(c) the DEC's role is as follows:

When regulation is determined to be necessary to resolve conflicts between two or more normal uses, priority will be given to resolving the conflict by separating the conflicting uses, such as by designating specific times or places where various uses are allowed.

The Secretary shall attempt to manage the public waters so that the various uses may be enjoyed in a reasonable manner and in the best interests of all the citizens of the State. To the extent possible, the Secretary shall provide for all normal uses.

Does DEC plan to include Little Hosmer Pond in the rulemaking process?

During 2016 meetings of the Great Hosmer Pond Task force there was a suggestion that one way to reduce pressure on Great Hosmer would be for the Craftsbury Outdoor Center to move some of their sculling activities to Little Hosmer Pond. DEC continues to solicit stakeholder input regarding whether a new rule would be needed on Little Hosmer Pond.



image by Nancy Moran

Questions raised at the October 25th meeting of the Great Hosmer Pond Task Force

How healthy is Great Hosmer Pond?

Although Great Hosmer Pond is classified as eutrophic due to relatively high phosphorous concentrations, water quality has improved over recent years. A decreasing trend in phosphorus levels has been observed. According to the VT DEC Lakes and Ponds Division, water clarity is excellent and overall water quality is listed in good condition.

What is the 30-acre rule in the Use of Public Water Rules?

The Use of Public Waters Rule adopted in 1995 by the Water Resources Board states:

Vessels powered by motor shall, in addition to the requirements of 23 V.S.A. § 3311(a) pertaining to careless and negligent operation: Not exceed five m.p.h. on lakes, ponds, and reservoirs upon which the operation of vessels powered by motor at substantially higher speeds is not a normal use, that have a

surface area of 75 acres or less, that have less than 30 contiguous acres outside the shoreline safety zone, or upon which the use of internal combustion motors is prohibited.

How is the 30-acre rule being applied to Great Hosmer Pond?

The Water Resources Board made some exceptions to the 30-acre rule; Great Hosmer Pond is one of those exceptions. The exception is contained in footnote 2 of the Use of Public Waters Rules and states:

“Despite having less than 30 contiguous acres outside the shoreline safety zone, the Water Resources Board, in its 1995 Rules, determined that high speed boating is a normal use on this waterbody.” See, No. UPW 95-00 (Appendix A), January 1, 1995.

In 2012, the Legislature dissolved the Water Resources Board and gave the Agency of Natural Resources authority to regulate lakes and ponds.

What is the 200-foot safety zone?

The Department of Motor Vehicles has authority over registration and operation of motor boats. The 200-foot safety zone is from Title 23, which is the title of Vermont Statutes Annotated that governs the Department of Motor Vehicles.

Title 23, section 3311 (c)(1), states:

“A person shall not operate any vessel, except a sailboard or a police or emergency vessel, within 200 feet of the shoreline, a person in the water, a canoe, rowboat, or other vessel, an anchored or moored vessel containing any person, or anchorages or docks, except at a speed of less than five miles per hour which does not create a wake.”

How does the 200-foot safety zone apply to sculling activities?

According to the Use of Public Waters Rules, the definition of vessel does not include racing shell or rowing sculls, 21 V.S.A. 3302(10) & (12).

(10) “Racing shell or rowing scull” means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing, and one in which all occupants row or scull, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

(12) “Vessel” means every description of watercraft, other than a seaplane on the water or a racing shell or rowing scull occupied exclusively by persons over 12 years of age, used or capable of being used as a means of transportation on water.

How does the 200-foot safety zone apply to Great Hosmer Pond?

Much of Great Hosmer Pond’s surface area is within the 200-foot shoreline safety zone (see Figure 1). Any vessel going through the narrows of Great Hosmer Pond faster than 5 mph is in violation of the 200-foot shoreline safety zone, even if the vessel is not creating a wake. This includes launches with electric motors that accompany sculls.

For further information about this statutory requirement, see the Great Hosmer Pond Pre-Rulemaking Fact Sheet titled “The 200-Foot Shoreline Safety Zone.”