



STATE OF VERMONT  
OFFICE OF THE STATE AUDITOR

January 14, 2022

Anthony Z. Roisman, Chair  
Public Utility Commission  
112 State Street  
Montpelier, VT 05620

Dear Chair Roisman,

My office is conducting an audit pertaining to the Department of Environmental Conservation's (DEC's) Dam Safety Program. During the course of this audit, it has come to my attention that the Public Utility Commission (PUC) does not utilize the same hazard potential definitions and inspection frequencies in its oversight of dams as DEC.

DEC defines a high hazard potential dam as any dam whose failure could result in the loss of a single life. DEC's classification of a high hazard potential is in line with the Association of State Dam Safety Officials' definition found [here](#) and the federal hazard potential classification system for dams found [here](#).

However, the PUC defines a significant hazard potential dam as one whose failure could result in the loss of a few lives and a high hazard potential dam as one where more than a few lives may be lost. Consequently, the PUC requires dams to be inspected considerably less often than DEC, even when lives are at risk, as shown in the table below:

Hazard Classification	PUC Inspection Frequency	DEC Inspection Frequency
High Hazard Potential	Every 5 Years	Every 2 Years
Significant Hazard Potential	Every 10 Years	Every 5 Years

The PUC's inspection schedule provides less opportunity to observe maintenance and safety issues between inspections. In addition, because of the misalignment of hazard potential definitions, a PUC significant hazard potential dam whose failure may cause the loss of a few lives (which DEC would classify as high hazard) may go ten years without an inspection.

I understand that the PUC is aware of this situation and has contemplated updating their rules to align its hazard potential classifications and inspection frequency to those DEC has adopted.<sup>1</sup>

<sup>1</sup> [Vermont Dam Safety Rule](#), adopted August 2020.

**DOUGLAS R. HOFFER**  
**STATE AUDITOR**



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I encourage the PUC to expeditiously update their hazard potential definitions and inspection frequencies for dams in order to correct the unintended but unjustifiable situation where inconsistent rules provide more protection for one Vermonter's life over another's based upon which state agency oversees the dam.

Please let me know if the PUC plans to align the two classification and inspection regimes to inform our audit follow-up activities.

Sincerely,

A handwritten signature in black ink that reads "DOUG HOFFER".

Douglas R. Hoffer  
Vermont State Auditor

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**State of Vermont**  
**Public Utility Commission**  
January 20, 2022

Office of the State Auditor  
Douglas R. Hoffer, Vermont State Auditor  
132 State Street  
Montpelier, Vermont 05633-5101

Dear Mr. Hoffer:

Thank you for your recent correspondence regarding the Public Utility Commission's dam safety rule. I agree with your conclusion that the Commission's dam safety rule should be updated, and I have directed Commission staff to begin work on this immediately.

The Commission has been following the Department of Environmental Conservation's rulemaking proceeding regarding its Administrative and Standard Dam Safety Rules. Act 161 of 2018 directed the Department of Environmental Conservation to develop its dam safety rules in two parts, with the second part to be completed in the summer of 2022. To avoid duplicative proceedings, the Commission had planned to wait until the Department of Environmental Conservation completed the second part of its rulemaking before initiating a PUC rulemaking and then to revise Commission Rule 4.500.

After discussing the concerns raised in your correspondence, however, the Commission has determined that the better course of action is to initiate a rulemaking now with the narrow focus of aligning the hazard potential definitions and inspection frequencies in Commission Rule 4.500 with the definitions and classifications contained in the Department of Environmental Conservation's rule, state statutes, and other federal and state organizations. The Commission will take up any additional revisions to Commission Rule 4.500, if needed, after the Department of Environmental Conservation completes the second part of its rulemaking this summer.

The Commission will initiate the rulemaking proceeding discussed above immediately and will move through the rulemaking process as expeditiously as possible.

Thank you again for bringing this matter to our attention. I hope that this addresses your concerns. Please contact me anytime if you would like to discuss the issue further.

Sincerely,

*Anthony Roisman*

Anthony Z. Roisman  
Chair