

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-4420-RULE

Proposed revisions to Vermont Public Utility Commission Rule 4.500 on the Safety of Hydroelectric Dams	
--	--

Order entered: 10/10/2022

NOTICE OF PROPOSED RULE

In today's Order, the Vermont Public Utility Commission ("Commission") initiates a rulemaking proceeding to revise Rule 4.500, which governs the safety of hydroelectric dams under the Commission's jurisdiction in Vermont.

I. BACKGROUND

On January 14, 2022, the Auditor for the State of Vermont contacted the Commission regarding its audit of the Department of Environmental Conservation's ("DEC") Dam Safety Program. The State Auditor noted that the DEC's new Administrative Dam Safety Rules, which became effective August 1, 2020, established hazard classifications and inspection frequencies that differ from the hazard classifications and inspection frequencies contained in Commission Rule 4.500. The State Auditor encouraged the Commission to update the hazard classifications and inspection frequencies in Rule 4.500 to eliminate the difference.

On January 20, 2022, the Commission informed the State Auditor that the Commission would initiate a rulemaking to update the hazard potential classifications and inspection frequencies in Rule 4.500 to match those provided in the DEC's Administrative Dam Safety Rules.

On August 26, 2022, the Commission notified the State Auditor that the Commission's rulemaking would be necessarily limited to updating the hazard potential classifications in Rule 4.500 because DEC had not yet adopted standards for its periodic inspections. The Commission explained that it would initiate a second rulemaking to update its inspection frequencies and requirements once the DEC finalized its Standards Rules specifying inspection requirements.

II. SUMMARY OF THE PROPOSED RULE

The proposed revisions to Rule 4.500 in this rulemaking will update the Commission’s hazard classification definitions that apply to hydroelectric dams under Commission jurisdiction in Vermont. These changes will bring consistency to the hazard classifications applied by the Commission and the DEC for dams under their respective jurisdictions, as well as consistency in the high, significant, and low hazard potential definitions provided in Commission Rule 4.500 and the Federal Emergency Management Agency’s Federal Guidelines for Dam Safety (2004).

The proposed revisions to Rule 4.500 retain the high, significant, low, and minimal classifications, but change the definitions of those classifications as follows:

Hazard Classification	New Definition
High	Dams where failure or mis-operation will probably cause loss of human life.
Significant	Dams where failure or mis-operation results in no probable loss of human life but can cause economic loss, environment damage, disruption of lifeline facilities, or other impacts. Significant hazard potential classification dams are often located in predominantly rural or agricultural areas but could be located in areas with population and significant infrastructure.
Low	Dams where failure or mis-operation results in no probable loss of human life and low economic and environmental losses.
Minimal	A dam that meets the “low” hazard definition, above, but is only capable of impounding less than 500,000 cubic feet.

For comparison, the hazard classification definitions in the current Rule 4.500 are as follows:

Hazard Class	Potential Loss of Life	Potential Economic Loss
High	More than a few	Excessive (extensive community, industry, or agriculture)
Significant	Few (no urban development and no more than a small number of inhabitable structures)	Appreciable (notable agriculture, industry, or structures)
Low	None expected (no permanent structures for human habitation)	Minimal (undeveloped to occasional structures or agriculture)
Minimal	None expected	None expected

The inspection frequencies and requirements in Commission Rule 4.500 will be updated at a later date after the DEC finalizes its Standards Rules.


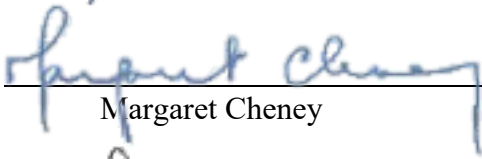
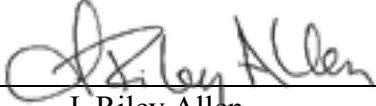
III. DEADLINE FOR COMMENTS

The Commission will pre-file its proposed rule revisions with the Interagency Committee on Administrative Rules (“ICAR”) soon. After approval by ICAR and filing with the Secretary of State, the Commission will provide an opportunity for participants to file comments on the proposed Rule. During the public comment period, Commission staff will hold one or more public hearings, as prescribed by ICAR. After the initial public comment period ends, the Commission may provide additional time for stakeholders to respond to comments, as necessary, and will determine if any additional process is needed.

This rulemaking is being processed in the Commission’s online document management system, known as ePUC, which can be accessed at <https://epuc.vermont.gov>. Comments should be filed in ePUC using the “Add Briefs, Comments, or Discovery” action in Case No. 22-4420-RULE. Comments should not be filed using the “Public Comment” option. This proceeding is not a contested case. Anyone interested in participating may subscribe to the proceeding in ePUC. Please contact the Clerk of the Commission at puc.clerk@vermont.gov with any questions about how to subscribe to the proceeding.

SO ORDERED.

Dated at Montpelier, Vermont, this 10th day of October, 2022.

 _____)) PUBLIC UTILITY))
Anthony Z. Roisman)	
_____)	
 _____)) COMMISSION))
Margaret Cheney)	
_____)	
 _____)) OF VERMONT))
J. Riley Allen)	
_____)	

OFFICE OF THE CLERK

Filed: October 10, 2022

Attest: 
_____)
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 22-4420-RULE - SERVICE LIST

*James Porter, Director of Public Advocacy
Vermont Department of Public Service
DPS-PA@vermont.gov

(for Vermont
Department of Public
Service)

Others receiving notice outside ePUC:

PUC large email list

Parties in Cases: #18-0537-INV; #18-2549-PET & #20-2570-PET