# **15 DEPARTMENT OF DEFENSE, VETERANS AND EMERGENCY MANAGEMENT**

**214 MAINE EMERGENCY MANAGEMENT AGENCY**

**Chapter 4: MAINE DAM REPAIR AND RECONSTRUCTION REVOLVING LOAN PROGRAM**

**Summary**: These rules govern the application and approval process for projects to be considered for funding through the Maine Dam Repair and Reconstruction Revolving Loan Program, established pursuant to Title 37-B MRSA §1130, and implemented by a Memorandum of Understanding between the Maine Emergency Management Agency and the Maine Municipal Bond Bank.

**SECTION 1. Definitions**

1. “Agency” means the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management.

2. “Bond Bank” means the Maine Municipal Bond Bank.

3. “Commissioner” means the Commissioner of the Department of Defense, Veterans and Emergency Management.

4. “Department” means the Department of Defense, Veterans and Emergency Management.

5. “Director” means the Director of the Maine Emergency Management Agency, within the Department of Defense, Veterans and Emergency Management.

6. “Dam” has the same meaning as set forth in Title 37-B MRSA §1111, sub-§1.

7. “Emergency action plan” has the same meaning as set forth in Title 37-B MRSA §1111, sub-§5.

8. “Fund” means the Dam Repair and Reconstruction Fund established by Title 37-B MRSA §1130.

9. "Hazard potential" has the same meaning as set forth in Title 37-B MRSA §1111, sub-§6.

10. “Professional engineer” means an individual who is licensed as an engineer under Title 32 MRSA chapter 19 and who is experienced in the inspection and design of dams.

11. “Management Plan” means a plan or written set of procedures to: operate and maintain the dam; adjust water flow during normal and emergency conditions; operate the spillways; operate the gates or water level controls; repair and maintain the structure; control security and vandalism; maintain access, ensure spillways are not blocked; test mechanical equipment; keep records; and report dam incidents to the relevant authorities.

12. “Municipality” has the same meaning as set forth in Title 30-A MRSA §5903, sub-§7.

13. “Program” means the Maine Dam Repair and Reconstruction Revolving Loan Program.

14. "Public safety" or "safety of the public" has the same meaning as set forth in Title 37-B MRSA §1111, sub-§9.

15. "Quasi-municipal corporation or district" has the same meaning as set forth in Title 30-A MRSA §2351, sub-§4.

16. “State Dam Inspector” has the same meaning as set forth in Title 37-B MRSA §1111, sub-§10.

**SECTION 2. Eligibility**

1. **Applicants**. The applicant must be a municipality or a quasi-municipal corporation or district that owns or is proposing to acquire a dam.
2. **Projects**. Applicants may apply for a loan for a project in one or more of the following categories:
3. **Acquisition** – engineering and legal costs necessary to acquire title to a dam for the purpose of repair, reconstruction or removal.

B. **Engineering** – engineering studies to determine structural deficiencies and/or to develop plans for repair or reconstruction of a dam.

C. **Repair or reconstruction** – engineering, construction and/or related legal costs necessary to repair or reconstruct a dam.

D. **Removal** – engineering, construction and/or related legal costs for breaching or removal of a dam.

E. **Emergency remedial measures** – costs incurred to address an emergency situation, as defined in Title 37-B MRSA §1111, sub-§4, or to comply with a dam safety order issued pursuant to Title 37-B MRSA §1119, sub-§4.

3. **Loan Requests**. Applicants may request a loan of up to one hundred thousand dollars ($100,000.00) per application, with a payback period of up to five (5) years.

**SECTION 3. Application procedure and content**

1. **Deadlines for submission of applications**. The Agency will establish a schedule for receipt of applications each year based on the availability of funds.
2. The Agency will publish a notice, at least once a year, indicating a period of not less than 60 days during which applications for loans will be accepted. Notice will be posted on the agency’s web site and sent directly to any municipality or quasi-municipal district or corporation that has submitted a written request to the Agency within the previous year asking to be notified of the application period.
3. Notwithstanding the schedule for receipt of applications set by the Agency, the Director may accept an application at any time if the applicant is applying for funds to address an emergency situation at a dam, as defined in Title 37-B MRSA section 1111, sub-§ 4, and if the fund balance is sufficient to support an approved application.

C. Applications that are accepted as complete will remain active with the Agency for a period of one year from the date of acceptance, unless sooner withdrawn by the applicant. Notice of such withdrawal must be submitted in writing to the Agency.

1. **Contents of application**. Applications must be submitted on a form provided by the Agency, together with supporting materials required by the Agency for each type of project as indicated on the form. If an applicant is seeking funding for projects at more than one dam, a separate application must be submitted for each dam.
2. Each application must include the following information:
3. An Emergency Action Plan for the dam, which has been updated within two years prior to submission of the application and meets the requirements of Title 37-B MRSA §1127.
4. A statement, including a reference to relevant source documents, indicating the purpose of the dam, and the applicant’s title, right or interest in the dam and any appurtenant facilities or property that are the subject of the application. If the applicant does not currently hold title to the dam, the application must include a statement with supporting documentation identifying all persons or entities holding title, right or interest in the property that is the subject of the application.
5. A description of the dam project and cost estimates for all the work to be completed as part of the proposed project.
6. The amount of the loan requested by the applicant.
7. The name, address and qualifications of any professionals whose services are to be paid for with the loan proceeds.
8. Photographs of the dam showing its current condition.

7. A map showing the location of the project.

1. For any application seeking funds for repair or reconstruction, a recent condition report including inspection findings, a current engineering assessment (completed not less than one year prior to submission of the application) of the dam, including any recommendations for repair or reconstruction or for further study, a stability analysis and any other engineering analysis. This may be a report issued by the State Dam Inspector.
2. Financial information as may be required by or useful to the Bond Bank in making a determination of the applicant’s ability to pay back the loan.
3. For any application seeking funds for repair, reconstruction, or removal of a dam, all federal, state or local permits, licenses or other regulatory approvals required to implement the project, or documentation confirming that no such regulatory approvals are required.

B. Additional information that may be submitted, as appropriate, includes:

1. A history of dam construction and repairs to the dam and any appurtenant facilities.
2. Operation, maintenance, design, and construction records.
3. Previous reports and design proposals.
4. Natural resource assessments that identify diadromous species and all species listed as threatened or endangered.
5. A statement regarding the presence of any threatened or endangered species.
6. Initial review for completeness and eligibility. All applications will be reviewed initially for completeness and to determine whether the project is eligible for the loan program. The Agency will notify the applicant of any deficiencies, which must be corrected by the deadline for that application period in order for the application to be accepted for filing. Applications for eligible projects will be accepted for filing if complete.
7. Additional information. The Agency may request additional information from the applicant after the application deadline if necessary to rate the application pursuant to section 4.

**SECTION 4. Evaluation of Proposals**

1. All applications that have been accepted for filing and are active with the Agency will be ranked in order of priority according to the following scoring criteria, summarized in the table below:

A. The initial score will be based on the hazard potential of the dam which is the subject of the application. Projects involving high hazard potential dams will be assigned the highest priority (5 points); significant hazard potential dams will receive the next highest priority (3 points); and low hazard potential dams will receive the lowest priority (1 point).

B. Each project will then be scored according to the condition of the dam and the risk of failure. Dams that are in poor condition, meaning that they appear to have structural defects that are likely to cause failure and uncontrolled release of water downstream, will be assigned the highest priority (5 points); dams in fair condition, meaning that they appear to have only minor structural defects or operational and maintenance defects presenting a moderate risk of causing an uncontrolled release of water downstream, will be assigned an intermediate level of priority (3 points); and dams in good condition, meaning that they appear to be adequately designed, operated and maintained, will receive the lowest priority (1 point). Inspection reports or analyses prepared by the State Dam Inspector may be considered in conducting this evaluation.

C. The applications will be scored according to the nature of the remedial work proposed and the degree to which it will reduce identified risks to public safety. Projects involving emergency remedial measures to address an emergency situation or to comply with a dam safety order, as described in section 2.2.E of this rule, will be assigned the highest priority (5 points). Non-emergency repair, reconstruction and removal projects that directly reduce risks to public safety will be assigned 3 points. Projects for plan development and legal work will be assigned 1 point. Applications for repair or reconstruction that do not address identified risks to public safety will be assigned 0 points.

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| TABLE OF CRITERIA USED TO RANK PROJECTS |
| Risk Criteria | Ranking | Points |
| Hazard Potential | High | 5 |
|  | Significant  | 3 |
|  | Low | 1 |
| Condition | Poor | 5 |
|  | Fair | 3 |
|  | Good | 1 |
| Nature of project | Emergency remedial measures | 5 |
|  | Non-emergency repair, reconstruction or dam removal | 3 |
|  | Plan development or legal work | 1 |
|  | Repair or reconstruction project that does not address identified risk to public safety  | 0 |

**SECTION 5. Approval**

1. The Agency will notify the Bond Bank which projects have been pre-approved for funding based on the ranking of the proposals described in section 4 above and on the availability of funds. The Bond Bank will then evaluate the financial information submitted by the applicant for each pre-approved project and advise the Agency if the loan has been approved or denied. In the event that the loan is denied by the Bank, the applicant shall be given an opportunity to provide such additional information as it deems may be useful in re-evaluating the loan for approval.
2. The Director will notify the applicants that have received final approval for a loan and refer them to the Bond Bank for execution of a loan agreement in accordance with section 6 of this rule.
3. Applicants whose projects were not approved for funding will be notified in writing of the grounds for that decision. All active applications will remain on file with the Agency for consideration in the next application cycle if sufficient funds remain in the Program.

**SECTION 6. Terms of Loans**

1. The term of each loan shall be established by the Bond Bank as set forth in the loan agreement, but no loan under this program shall have a term greater than five (5) years.
2. The interest rate for loans under this Program shall be fixed at two percent (2%) below the Bond Bank’s then-current Standard Rate for tax-exempt lending at the time the loan is made. At no time will the interest rate be lower than 0%.

**SECTION 7. Disbursement of funds**

1. Disbursement of funds by the Program will be on a reimbursement basis, up to the approved amount of the loan.
2. Once a loan agreement has been executed by the applicant and the Bond Bank, the applicant may submit invoices for reimbursement to the Agency for approval. All approved reimbursement requests will be forwarded to the Bond Bank for payment.
3. The applicant will be responsible for informing the Agency when the project is complete.

**SECTION 8. Loan repayment**

1. Repayment of loans issued under this Program shall be submitted to the Bond Bank and made in accordance with the terms set forth in the loan agreement executed by the Bond Bank and the successful applicant. All repayments received from borrowers of the program, will be re-deposited into the revolving loan fund and made available for future year funding requests.

STATUTORY AUTHORITY: 37-B MRSA §1130

EFFECTIVE DATE:

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