WEST VIRGINIA CODE: §22-14-20

§22-14-20. Dam Safety Rehabilitation Revolving Fund program.

(a) The secretary shall develop a state list of deficient dams using a priority ranking system based on factors designed by the secretary. Only dams on the list of deficient dams are eligible for a loan from the Dam Safety Rehabilitation Revolving Fund.

(b) The secretary shall develop an application, including eligibility requirements for persons applying for loans to correct or remove deficient dams. The eligibility requirements shall include, at a minimum, that the:

(1) Dam is on the list of deficient dams;

(2) Person is in a state of readiness to proceed to planning, design or construction and expend loan payments in a timely manner;

(3) Person has demonstrated the ability to repay the loan; and

(4) Person is in compliance with section five of this article.

(c) A person who owns an interest in a deficient dam on the list of deficient dams may apply to the department for a loan from the fund on forms designed and approved by the secretary.

(d) Following approval by the secretary of the application for a loan and a determination by the secretary and the authority that moneys are available for a loan, the secretary may direct the authority to enter a loan agreement with the person submitting the approved application.

(e) At the direction of the department pursuant to subsection (d) of this section, the authority shall enter into a loan agreement with a person approved for a loan. The loan agreement is binding under the laws of West Virginia and shall contain provisions as required by the secretary, including:

(1) The cost of the project, the amount of the loan and the terms of repayment of the loan and the security for the loan which may include a deed of trust or other appropriate security instrument creating a lien on the project or any other collateral the secretary may require;

(2) The specific purposes for which the proceeds of the loan are required to be expended, the procedures as to the disbursement of loan proceeds including an estimated monthly draw schedule and the duties and obligations imposed upon the applicant in regard to the acquisition or construction of the project;

(3) The agreement of the applicant to repay the obligations of the applicant under the loan agreement, including provisions that revenue may be pledged for the repayment of the loan

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together with all interest, fees and charges on the loan and all other financial obligations of the applicant under the loan agreement;

(4) If notes or other interim obligations are being issued by the applicant, the agreement of the applicant to take other repayment actions that are required of the applicant under the loan agreement;

(5) The agreement of the applicant to accept the authority's enforcement remedies pursuant to section twenty-one of this article in the event of any default under the loan; and

(6) The agreement of the applicant to comply with all applicable federal and state statutes and rules and regulations and all applicable local ordinances pertinent to the financing, acquisition, design, construction, operation, maintenance and use of the project.

(f)(1) If the secretary assumes full charge and responsibility over a dam pursuant to section twenty-two of this article, and seeks to expend money from the fund for the purpose of repairing or removing a dam or taking other remedial action, the secretary shall, prior to seeking a requisition from the fund, provide the authority with the following information:

(A) The location of the dam;

(B) The owners of the dam; and

(C) The maximum amount estimated for repairing or removing the dam or taking other remedial action.

(2) The authority shall then determine whether sufficient moneys are available to satisfy the maximum amount estimated for the dam and still meet all loan obligations of the fund.

(g) The obligation of the authority to enter into loan agreements is conditioned on the availability of moneys in the fund in amounts and on terms and conditions as, at the direction of the secretary, will enable the authority to make loans.

(h) The ability of the secretary to use moneys in the fund pursuant to section twenty-two of this article is conditioned upon the availability of moneys in the fund.

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