

**AGENCY OF NATURAL RESOURCES**  
**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**ENVIRONMENTAL PROTECTION RULES**  
**CHAPTER 28**  
**UNSAFE DAM REVOLVING LOAN FUND RULES**

**Subchapter 1 – AUTHORITY AND PURPOSE**

**28-101          Authority**

This rule is adopted under the authority of 10 V.S.A. §1106, “Unsafe Dam Revolving Loan Fund”.

**28-102          Purpose**

- (a) This Rule establishes the standards and procedures for the use of the Vermont Unsafe Dam Revolving Loan Fund.
- (b) The Unsafe Dam Revolving Loan Fund shall be used to provide loans and grants to qualified municipalities, nonprofit entities, and private individuals for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the threat of a dam or a portion of a dam that has been determined to be unsafe under 10 V.S.A. §1095.

**28-103          Definitions**

- (a) As used in this Rule, the following terms shall have the specified meaning. If a term is not defined, it shall have its common meaning:
  - (1) “Commissioner” means the Commissioner of the Department of Environmental Conservation or his or her duly authorized representative.
  - (2) “Engineer” means a professional engineer licensed under Title 26 who has experience in the design and investigation of dams.
  - (3) “Fund” means the unsafe dam revolving loan fund.

**Subchapter 2 – APPLICATION AND ELIGIBILITY**

**28-201          Eligibility for Financing**

- (a) To qualify for financing through the Fund:

- (1) The dam must be owned by a municipality, nonprofit entity, or private individual(s);
- (2) The owner of the dam must have legal access to the dam to perform the required actions;
- (3) The dam must be determined to be unsafe pursuant to 10 V.S.A. §1095;
- (4) The work must provide a long-term solution to the unsafe condition of the dam and be approved by the Commissioner; and
- (5) The owner of the dam must apply for financing through the Fund.

**28-202      Application for Financing**

- (a) Any person applying for financing through the Fund shall submit an application on the form provided by the Commissioner. The application shall be accompanied by the following documentation:
  - (1) A copy of the property deed or other document legally describing the property that demonstrates that the applicant is the dam owner and has legal access to the dam;
  - (2) Complete design plans, prepared under the supervision of an engineer, for the physical work to be done on the dam;
  - (3) A proposed schedule for the breaching, removal, draining, repair, reconstruction or other action necessary to reduce the threat posed by the dam; and
  - (4) A copy of the unsafe dam order issued pursuant to 10 V.S.A. §1095.

**28-203      Selection Process and Criteria**

- (a) The Commissioner shall review applications to determine eligibility and to establish funding priorities based on the action required to be taken to reduce the threat of a dam or portion of a dam determined to be unsafe pursuant to §1095 as follows:
  - (1) First priority for funding shall be given to dams or portions of dams determined by the Commissioner to present an imminent threat under 10 V.S.A. §1095(c) if the work to abate the threat is done by the dam owner.
  - (2) Second priority for funding shall be given to dams or portions of dams determined by the Commissioner to be unsafe or a menace to people or property where the unsafe dam order directs breaching or removal and associated draining.

- (3) Third priority for funding shall be given to dams or portions of dams determined by the Commissioner to be unsafe or a menace to people or property where the unsafe dam order directs draining, repair, reconstruction, or other action.
- (b) Notwithstanding the priorities established above, a qualified project may be denied funding if there are inadequate funds to cover eligible costs.

### **Subchapter 3 – FUND FINANCING**

#### **28-301 Financing; Total Eligible Costs**

- (a) Financing from the Fund shall be in the form of a 100% loan, or a 25% grant together with a 75% loan as follows:
  - (1) First priority projects, as identified in section 28-202(b)(1), will be funded based on the type of actions that will be taken by the owner. Actions that include breaching or removal shall be eligible for 25% grant and 75% loan funding. Actions that include draining, repair, reconstruction, or other action shall be eligible for 100% loan funding.
  - (2) Second priority projects, as identified in §28-202(b)(2), shall be eligible for 25% grant and 75% loan funding.
  - (3) Third priority projects, as identified in section 28-202(b)(3), shall be eligible for 100% loan funding.
- (b) The total eligible costs per project that may be financed under these Rules is limited to a maximum of \$50,000 except that the \$50,000 cap may be increased for all projects, at the discretion of the Commissioner, based on accepted construction cost indexes. Changes to the cap shall be posted on the Agency of Natural Resources website.
- (c) Work required by an unsafe dam order is an eligible cost, including services provided by an engineer. No other work shall constitute an eligible cost.

#### **28-302 Disbursement of funds**

- (a) Funds will be disbursed on a reimbursement basis after the applicant provides sufficient documentation of incurred eligible costs.
- (b) Grants, if any, will be disbursed first.
- (c) The duration of all loans shall not exceed 10 years.
- (d) The interest rate for all loans shall be 2%.

- (e) The Commissioner may retain a percentage of the loan or grant monies designated to fund eligible costs in order to ensure final completion of the project.
- (f) The Commissioner may request documentation, as necessary, to determine completion of the project. Completion of the project shall be determined solely by the Commissioner.
- (g) The Commissioner shall file a notice of the loan in the land records for the municipality where the unsafe dam is located. The notice shall be recorded and indexed in accordance with 24 V.S.A. §§ 1154 and 1164 with the state of Vermont listed as the grantee.

**28-303          Repayment**

- (a) Fund repayment shall be in accordance with the following:
  - (1) Loan repayments shall begin upon completion of the project and shall be made on an annual basis, in accordance with a schedule established by the Commissioner.
  - (2) Full repayment of the loan shall be required upon sale or transfer of the property.
  - (3) Where it is determined by the Commissioner that the private individual(s) owner or non-profit entity owner does not have the financial resources to repay a loan granted under this Rule, partial loan forgiveness or grants may be authorized, at the Commissioner's discretion.
  - (4) Pursuant to 10 VSA §1106 (c), the Commissioner may bring an action to seek reimbursement to the fund for loans made from the Fund.