

Administrative Procedures Act Rules

Title 11: Mississippi Department of Environmental Quality

Part 7: Surface Water and Groundwater Use and Protection, Licensing of Water Well Contractors and Dam Safety Regulations

Part 7, Chapter 4: Mississippi Commission on Environmental Quality Dam Safety Grant Program Regulations

TABLE OF CONTENTS

Rule 4.1. Definitions

Rule 4.2. Mississippi Dam Safety Fund

Rule 4.3. Dam Safety Grant Program

Rule 4.4. Risk-based system for use in ranking high hazard dams to establish priority

Rule 4.5. Grant Agreements

Rule 4.1 Definitions.

In accordance with the definitions provided in Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020, for the purposes of this chapter, the following terms shall have the meanings ascribed in this rule unless the context clearly indicates otherwise:

- A. "Commission" means the Mississippi Commission on Environmental Quality.
- B. "Department" or "MDEQ" means the Mississippi Department of Environmental Quality.
- C. "High hazard dam" means a class of dam in which failure may cause loss of life, serious damage to residential, industrial, or commercial buildings; or damage to, or disruption of, important public utilities or transportation facilities such as major highways or railroads.

Source: *Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020*

Rule 4.2 Mississippi Dam Safety Fund

- A. Section 19 of H.B. 1730, Mississippi Regular Session of 2020, created in the State

Treasury a special fund to be designated as the "Mississippi Dam Safety Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants for the purposes provided hereafter.

B. Monies in the fund may be used to reimburse reasonable actual and necessary costs incurred by the department for the administration of the grant program. An accounting of actual costs incurred for which reimbursement is sought shall be maintained by the department. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued. Reimbursements shall satisfy any applicable federal tax law requirements.

Source: *Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020*

Rule 4.3 Dam Safety Grant Program

A. The department hereby establishes a grant program to make grants to owners of high hazard dams to provide funds to be used for the purposes of draining, repairing, rehabilitating, breaching, or removing high hazard dams in this state as necessary to protect downstream lives and property.

B. In cases where a high hazard dam has been determined by the MDEQ Dam Safety Division as having deficiencies preventing the dam from being in compliance with high hazard standards, the owner of the dam may apply for a grant with the Department. An application for a grant shall be submitted at such time, be in such form, and contain such information as the department prescribes.

C. If the department approves the application, it may provide a grant to the applicant. A permit application will also be required as provided in Miss. Code Ann. Section 51-3-39 for any alteration of a dam. The permit application must include detailed plans for review and approval by the department before commencement of any alteration of a dam, including those modified with funds provided by a grant. The department will employ a risk based system for ranking high hazard dams to establish priority for funding, as provided in the following rule.

Source: *Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020*

Rule 4.4 Risk-based system for use in ranking high hazard dams to establish priority

In its selection of projects to which award grants, subject to available funds, MDEQ shall rank and prioritize applications for Dam Safety Grants based on the potential to reduce risk to downstream lives and property in the event that the dam were to fail. Additional studies and information related to the condition of the dam will also be considered by MDEQ in ranking and prioritizing applications for Dam Safety Grants.

Source: *Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020*

Rule 4.5 Grant agreements

A. Upon the department's approval of an application for a grant, the department shall enter into a project grant agreement with each grantee to establish the terms of the grant and the project, including the amount of the grant.

B. The grant funds shall be used by grantees to address deficiencies defined by the Dam Safety Division of the department and may not be used to perform routine operation or maintenance of a dam, to modify a dam to produce hydroelectric power, to increase water supply storage capacity, nor to make any other modification to a dam that does not also improve the safety of the dam.

C. Grant funds will be disbursed to the grantees of the Dam Safety Grant program as reimbursement of eligible program activities performed in accordance with the approved grant application. Requests for reimbursement shall be submitted timely and in such form, and contain such information, as the department prescribes.

D. Any assistance provided for a project shall be subject to a grantee cost-sharing requirement of not less than thirty-five percent (35%). The grantee share may be provided in the form of eligible in-kind contributions.

E. As part of a project grant agreement, a grantee must provide an assurance with respect to the dam to be rehabilitated under the project that the owner of the dam has developed and will commit to utilizing an Operation and Maintenance Plan for maintenance of the dam during the expected life of the dam. Dam owner grantees may be required to provide financial assurance to assure the continuing proper maintenance for the dam.

Source: *Section 19 of H.B. 1730, passed and became law in Mississippi Regular Session of 2020*