**ACTIVITIES IMPACTING LANDS OF FLOOD PROTECTION PROJECTS**

**FREQUENTLY ASKED QUESTIONS**

*The purpose of this FAQ is to explain the roles and responsibilities for operation and maintenance of a flood protection project. The information in this guidance is solely advisory and does not represent a legal interpretation by the Department. Nothing in this summary shall affect any statutory requirements.*

**1. Who is responsible for operating and maintaining state constructed flood protection projects?**

The municipal sponsor of a flood protection project must monitor, operate and maintain the project and the project lands.

**2. Can flood protection projects be altered?**

The sponsor cannot alter or allow anyone else to alter the project, threaten the structural integrity of project structures or encroach on project lands. Although the Department of Environmental Protection (DEP) prefers that a project and its lands be maintained in original as-built conditions, there are times when certain activities or changes to the project can be permitted.

**3. What kind of alterations are acceptable and necessary in flood protection projects with earth channels?**

Flood projects are designed to provide protection from a specific magnitude of flood, typically the 1% flood. The flood-carrying capacity of a channel depends on its shape, cross-sectional area, roughness, and invert slope. The municipal sponsor must perform the appropriate maintenance to ensure that these parameters do not change from as-built conditions. If the project is not maintained in as-built conditions, the level of flood protection it can provide is decreased, and the risk of channel overtopping and community flooding is increased.

**4. What types of in channel work may be approved by DEP?**

DEP can give favorable consideration to a channel-related activity or changes if:

* The activity results in the restoration of the channel to a more natural state.
* The flood-carrying capacity of the project is not reduced.
* The structural integrity of the project features is not compromised.
* The function of project features is not compromised.
* Maintenance procedures are not adversely impacted.
* Inspection activities are not obstructed.
* Hydraulic parameters of the project (size, shape, roughness, and invert slope) are not altered.
* The flow path is not obstructed, and there is no potential for debris hang-ups.
* Vegetation does not have, and will not develop, a deep or extensive root system that could develop seepage paths through levees or under flood walls.
* Vegetation does not obstruct visual monitoring and inspection.
* Vegetation does not hinder maintenance, flood fighting, or emergency operations.

**5. What are the recommended or considerations for new bridges or replacement of bridges within flood protection projects?**

DEP can give favorable consideration to a bridge-related activity if:

* The elevation of the low chord of the bridge is higher than the water surface elevation of the project’s design flow (typically the 1% flow but can be greater if the flood‑of‑record flow exceeds the 1% flow).
* The bridge completely spans the project limits, with no in-stream piers to obstruct flow.
* The bridge does not compromise the structural integrity of the project.
* The municipal sponsor has no objections to the bridge.
* The bridge owner obtains all required permits.
* All bridge supports and footings are structurally independent of the project features. (DEP must review and approve the bridge proposal.)
* The bridge does not obstruct or restrict operation, maintenance, or inspection of the flood protection project (such as drainage structures and expansion joints).
* The bridge incorporates a locked access gate, in-line with the project’s chain-link fence (municipal sponsor must be provided a key for the lock).

**6. Can DEP approve a fence along or across the flood protection project and associated lands?**

DEP strongly discourages and normally will not allow private fences on project lands because they:

* Hinder the sponsor from monitoring, operating, and maintaining the project.
* Hinder DEP and the U.S. Army Corps of Engineers from performing annual maintenance inspections.
* Delay and restrict sponsor access to project lands in the event of an emergency.
* Often result in damages to the project and the project lands.

However, DEP may, in special situations, consider approving a private fence if:

* + It is along the perimeter of the project lands.
  + It does not span the access route to the project from a public roadway or public lands.
  + It is through project lands but incorporates a 10-foot-wide unlocked gate.
  + It is not physically attached to any project feature.
  + DEP and the municipal sponsor review and approve the fence plans before installation.
  + The owner of the gate accepts full responsibility for any damages that occur to the project or the project lands as a result of the gate, including reimbursing the sponsor for costs associated with repairing project damages.\

**7. Is it okay to plant vegetation or trees along or within the flood protection project and associated lands?**

No, plantings are typically not allowed on project lands because they:

* + Interfere with visual inspections, monitoring, maintenance and flood fighting associated with the project.
  + Can create seepage paths through the project.
  + Can lead to serious erosion or sloughing problems.
  + Some exceptions may be taken for non-conflicting vegetation monitored by an organized group responsible for minor vegetation plantings along slopes if approved by the Department

**8. Is it okay to place sheds or other structures along or within the flood protection project and associated lands?**

Sheds and Other Items

No sheds, swing sets, fireplaces, or other items are permitted on project lands.

Recreational Enhancements

The following can be allowed on project lands provided the project is not adversely impacted:

* + Stabilized paths used for walking, jogging, biking or other activities.
  + Fields used for athletic events.
  + Other activities not requiring permanent structures.

# 9. What kind of approval process is needed to gain permission to alter flood protection project features or lands? What entities are involved?

Permission from several different entities is usually required to undertake activities on flood protection project lands, including:

* A review and approval by DEP’s Bureau of Waterways Engineering and Wetlands is required for any activities that impact lands of a flood protection project to assure the project’s level of flood protection and operation is not compromised.
* The municipal sponsor must approve all new activities on project lands. If the activity is approved, a formal agreement must be executed to assure, among other things, that the proponent of the new activity is responsible for maintenance.
* An activity receiving approval from DEP and the sponsor will require all necessary local, state and federal permits (i.e. building permit, DEP Chapter 105 Water Obstruction and Encroachment Permit pursuant to the Dam Safety and Encroachments Act, Department of the Army, Section 404 Permit, pursuant to the Clean Water Act, etc.).
* A license agreement may be required by DEP or the Department of General Services to allow the activity on Commonwealth lands.

For more information on the Flood Protection Program or technical assistance regarding specific projects, visit [Flood Protection](https://www.dep.pa.gov/Business/Water/Waterways/Flood-Protection/Pages/default.aspx) or [www.dep.pa.gov](http://www.dep.pa.gov) (select “Businesses,” then “Water,” then “Waterways Engineering and Wetlands,” then “Flood Protection”), or contact:

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Bureau of Waterways Engineering and Wetlands

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