

**FLOOD AND EROSION CONTROL BOARD (FECB) PROGRAM:
PURPOSE AND REQUIREMENTS
April 2015**



Robert Klee, Commissioner

Department of Energy and Environmental Protection
Bureau of Water Protection & Land Reuse
Inland Water Resources Division

FLOOD AND EROSION CONTROL BOARD (FECB)

PROGRAM PURPOSE

The Flood and Erosion Control Board (FECB) program provides state financial assistance to municipalities that have an active Flood Erosion and Control Board for preventing potential hazards due to flooding, stream bank erosion or beach erosion. In addition, FECB's may repair municipal dams or undertake non-structural measures that mitigate flood damages. An example of a non-structural project may include flood warning systems, flood proofing projects or the removal or relocation of severely flood prone residences.

FECB funding is provided to towns and cities that apply for assistance on a priority basis. Section 25-71 of the Connecticut General Statutes (CGS) establishes the level of State participation in a project.

FECB monies are not available to private dam owners or private property owners. However, tax districts are considered municipalities for the purpose of FECB funding if the district is established in accordance with CGS Section 7-339a.

The Connecticut General Statutes containing all the relevant statutes referenced in this document can be found on the following website: www.cga.ct.gov.

ESTABLISHING A MUNICIPAL FECB BOARD

When a municipality does not have an existing Flood and Erosion Control Board, an ordinance should be promulgated to adopt CGS Sections 25-84 through 25-94, thereby establishing such a board. The FECB may be the Board of Selectmen in municipalities with a population not exceeding 50,000 or may be an existing board or an independent board consisting of at least 5 but not more than 7 members. Information concerning formation of a Flood and Erosion Control Board is found in CGS Section 25-84.

STATE REQUIREMENTS FOR FECB PROJECTS

1. State Plan

To be eligible any proposed project must comply with the goals of the most current Conservation and Development Policies Plan for Connecticut, also known as the C&D Plan. The policies contained in the C&D Plan provide the policy and planning framework for state agency administrative and programmatic actions. The C&D Plan establishes six Growth Management Principles. The C&D Plan can be found on the following website: www.ct.gov/opm.

2. Flood Management Certification

FECB projects must also comply with Flood Management Act certification provisions, pursuant to CGS Sections 25-68b to 25-68h inclusive. The project must be designed to provide protection for at least the 100-year frequency storm, which may be a greater level of protection than the affected community considers prudent.

3. CEPA Document

In addition, all flood control projects that receive state funding are required to prepare a Connecticut Environmental Policy Act (CEPA) document, in accordance with CGS Section 22a-1a through h. The CEPA document consists of a review of the environmental impacts of a proposed project. This process takes additional time and requires the municipality to share the costs of the preparation of the document. However, dam repairs do not generally require preparation of a CEPA document.

4. Requirements After Completion of the Project

The municipality is responsible for operation and maintenance of the project area after construction is completed. All projects are subject to an audit that may be done at the expense of the municipality or as a joint audit with other state programs.

5. Ownership

To insure long-term maintenance and continuing public benefits from the project, DEEP policy requires that a municipality must own the property on which the proposed project is located. In lieu of owning such property, a community may also enter into a long-term (25- year minimum) lease of the property.

STATE ASSISTANCE

Funding from the State FECB program may be used to fund a portion of the costs for the engineering study, design and actual construction of the flood, erosion, non-structural flood mitigation measures or dam safety improvements.

The following need to happen before the state seeks approval for its share of the project from the Bond Commission:

- The municipality must submit a request with a project description and priority ranking worksheet
- The municipality must demonstrate its ability to fund the town's established share of the project costs
- DEEP must evaluate all project proposals and determine funding priorities
- Money must be authorized by the Legislature which can be allocated by the State Bond Commission for specific projects
- The municipality must enter into an agreement with DEEP regarding funding and project scope

MUNICIPAL ESTABLISHMENT OF FLOOD CONTROL, EROSION CONTROL AND DAM REPAIR SYSTEMS

CGS Sections 25-84 through 25-98 enables municipal acquisition of private property for flood control, erosion control, non-structural flood or erosion control mitigation measures and the repair of municipally owned or leased dams, when such structures will provide a benefit to the community.

EXPANDED ELIGIBILITY

In 1983 the Legislature amended CGS Section 25-85 to add dams and non-structural flood protection projects to those eligible as flood and erosion control projects. This change was enacted as a result of the State's increased efforts to ensure the safety of Connecticut's dams. Many of the ponds and lakes formed by these dams have developed extensive shorelines and provide significant recreational as well as other benefits to the community. The change to the statute enables a municipality to participate in dam repair projects which benefit their community.

Municipal Dam Eligibility Requirement

To be eligible for a FECB municipal dam repair project the dam must be municipally owned or leased for a term of 25 years or longer.



GENERAL PROCEDURES

Once a municipality determines that a particular project will benefit the community by providing benefits to abutting properties, or providing downstream flood control it may proceed as follows:

1. **Project Initiation.** Initiate the project as a strictly local program under CGS Sections 25-84 through 25-94. In this case, the municipality does the planning, design, acquisition of property or easements, project construction and is responsible for financing all costs of the project. The Flood and Erosion Control Board statutes authorize various methods of funding. Funding sources include local general funds, local special municipal bonding, and/or assessing the individual property owners benefiting from the project. All projects are subject to review and approval by the Commissioner of DEEP.

2. **Request for assistance.** A municipality may request financial assistance in implementing an eligible project. Priority will be given to projects that currently provide, or will provide significant public benefits. Once the Commissioner has approved an FECB request for assistance, DEEP IWRD will establish the cost-sharing ratio for the project. See attached form and worksheet. Submit this information to:

CT Department of Energy and Environmental Protection
Inland Water Resources Division
79 Elm Street
Hartford, CT 06106-5127

3. **Cost Sharing.** The pro-rated share of project cost contributed by the State is defined in CGS Section 25-71. An example of how an individual project cost-share ratio is calculated is shown on pages 8 and 9. After establishing the property ownership abutting the impoundment from a tax assessor's map, a funding ratio is calculated. At this point the administrator of the project must be selected. If the FECB administers the project, the local board must provide for funding 100% of the project costs. The FECB is reimbursed by the State, after funds are actually expended by the FECB. The State must be billed for its share of project costs on a monthly basis.

4. **Project Completion.** When project construction is completed, the municipality will be responsible for the project's operation and maintenance at no further cost to the State.

PRIORITY FOR STATE COST SHARED DAM REPAIR PROJECTS

The intent of CGS Sections 25-84 through 25-98 is to provide a funding mechanism for repair and/or improvement projects that will reduce potential hazards to life and property. These statutes provide for an alternative to dam removal when a dam owner cannot afford repair. If this situation exists and the municipality is capable of taking over ownership of or leasing the dam property, CGS Section 25-95 allows the state to cost-share with a municipality to obtain partial funding of repairs.

CGS Section 25-87 also authorizes the assessment of those property owners who benefit from the dam and water body for part of the cost of such repairs. For such an FECB dam repair project, those property owners who directly benefit from the existence of a dam and its impoundment share in the costs of maintenance and repair of that structure.



The DEEP will assign ***the highest priority, for purposes of state cost sharing, to dams which pose the greatest hazard to downstream lives and property***, based on anticipated damages from dam failure.



For instance, if two dams are subject to administrative repair orders and have the same hazard classification, the dam which would potentially cause loss of life and inundate a large area would be given a higher priority for action, than would be given to the dam which provides more community benefits, such as incidental flood control value, recreation, or wildlife habitat, but poses lesser potential damages should it fail. If two dams of equal potential hazard and equal benefit to upstream abutting property owners are proposed as projects, the dam that provides more significant flood storage and therefore more protection to downstream areas from flood damage, will be given the higher priority.

CALCULATION OF COST SHARING FOR JOINT STATE/MUNICIPAL REPAIR OF A DAM

The requirements for State assistance in funding municipal Flood and Erosion Control Board projects are established in CGS Sections 25-69 through 25-83a. Section 25-71 specifies how project costs are to be allocated, i.e., based on property ownership type. In most cases when a project will solely benefit private riverine, littoral or lake front properties, the costs must be pro-rated on the basis of two-thirds total cost to the local FECB and one-third of the cost to the State. If the repairs will benefit both private and municipally owned or leased riverine, littoral or lake front property, the State can pay 2/3 of the costs for municipal property benefited and 1/3 for the private property benefited. The State will pay 100% of the cost, allocated on a percentage basis, for any State owned shore front property.

The following example breaks out the cost share requirements for a dam forming a pond having seven abutting properties. Flood control, and erosion control projects are essentially calculated the same way. In this case, it was assumed that the municipality either currently owns or leases the dam.

EXAMPLE OF COST SHARE REQUIREMENTS

Ownership	Shoreline Length	State Share	Non-State Share
Parcel 1 - Municipally-Owned or Leased	600'	2/3	1/3
Parcel 2 - State - Owned	300'	100%	0%
Parcel 3 - Privately - Owned	800'	1/3	2/3
Parcel 4 - Privately - Owned	1200'	1/3	2/3
Parcel 5 - Privately - Owned	500'	1/3	2/3
Parcel 6 - Privately - Owned	400'	1/3	2/3
Parcel 7 - Municipally - Owned	<u>500'</u>	2/3	1/3
Total	4300'		

**FORMULA FOR CALCULATING
PERCENT OF SHORELINE OWNERSHIP**

$$\frac{\text{State Owner in ft.}}{\text{Total Shoreline}} \times 100 = \% \text{ of Shore} \quad \frac{300' \times 100}{4300'} = 6.9\%$$

$$\frac{\text{Municipal Owner in ft.}}{\text{Total Shoreline}} \times 100 = \% \text{ of Shore} \quad \frac{1100' \times 100}{4300'} = 25.5\%$$

$$\frac{\text{Private Owner in ft.}}{\text{Total Shoreline}} \times 100 = \% \text{ of Shore} \quad \frac{2900' \times 100}{4300'} = 67.4\%$$

**FORMULA FOR CALCULATING TOTAL
PERCENT OF STATE COST SHARE**

State-Owned Property

Percent of Shoreline x 1 = % of State Cost Share

$$6.9\% \times 1 = 6.9\%$$

Municipal Controlled Property

Percent of Shoreline x 2/3 = State Cost Share

$$25.5\% \times .667 = 17\%$$

Privately Owned Property

Percent of Shoreline x 1/3 = % State Cost Share

$$67.4\% \times .333 = 22.4\%$$

<i>State Share Total</i>	46.3%
<i>Non-state Share Total</i>	53.8%

SUBMITTING AN FECB FUNDING APPLICATION

The Department of Energy and Environmental Protection accepts applications on an annual basis from any active municipal Flood and Erosion Control Board. The application should include a project description and estimated project costs and funding needs and must be submitted by December 31st.

CONTACT US:

**Department of Energy and Environmental Protection
Inland Water Resources Division
79 Elm Street
Hartford, Connecticut –06106**

**Phone: 860-424-3706
www.ct.gov/deep**



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