

**FISH AND WILDLIFE SERVICE
FEDERAL FINANCIAL ASSISTANCE**

Federal Financial Assistance Part 517 FWS Finan. Assist-Eligibility & Program-Specific Requirements

Chapter 7 Sport Fish Restoration – Recreational Boating Access Subprogram

517 FW 7

7.1 What is the purpose of this chapter? This chapter provides eligibility standards and administrative procedures for recreational boating access projects funded by grants that the Service's Wildlife and Sport Fish Restoration Program (WSFR) administers.

7.2 What is the scope of this chapter? This chapter applies only to the Recreational Boating Access subprogram (subprogram) of the Sport Fish Restoration program.

7.3 What are the authorities for this subprogram? See 518 FW 1 for all the authorities for the WSFR Program chapters.

7.4 What terms do you need to know to understand this chapter? The terms you need to know to understand this chapter are in the Service handbook, *Wildlife and Sport Fish Restoration Program Glossary*.

7.5 Who is responsible for this subprogram? See 518 FW 1 for responsibilities for WSFR programs and subprograms.

7.6 What is the source of the program's funding? An annual apportionment from the Sport Fish Restoration and Boating Trust Fund (Trust Fund) is the source of funding for grants in this subprogram. The Trust Fund receives its revenue from:

- A. Federal excise tax and import duties on boating and angling equipment,
- B. Fuel taxes attributable to motorboats and small engines, and
- C. Interest on revenues deposited in the Trust Fund.

7.7 Is this a mandatory or discretionary financial assistance program? The Sport Fish Restoration program is a mandatory financial assistance program. States do not compete for funds in this program. Mandatory programs require Federal agencies to make awards based on prerequisites set by statute or regulations.

7.8 How does WSFR manage allocations for recreational boating access? Every year the Service gives the States an apportionment for recreational boating access under the Sport Fish Restoration program.

- A. Regional WSFR Divisions annually ask the States to notify them by April 1 of the amount of the funds available to the State that they expect to allocate (set aside) for recreational boating access projects.
- B. With the Regional Director's approval, States in a Region may allocate more or less than 15 percent (the legal mandate) of their annual Sport Fish Restoration apportionment. WSFR must ensure that the total allocation in each of the Regions averages at least 15 percent during separate and defined 5-year periods as described below.

(1) WSFR must calculate Regional allocation averages for separate 5-year periods that coincide with Federal fiscal years 2008–2012, 2013–2017, 2018–2022, and each subsequent 5-year period.

(2) At the end of the fifth year of each 5-year period, the total Regional allocation for the 5-year period must average at least 15 percent of the Sport Fish Restoration funds apportioned to the States in the Region.

(a) If the total Regional allocation for the 5-year period is less than the legally mandated 15 percent, the States may agree among themselves in a memorandum of understanding which State(s) will make the

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additional allocations so the Region meets the 15 percent requirement. No action is necessary if the total Regional allocation is more than the legally mandated 15 percent.

(b) If States do not agree on which of them will change their allocations to bring the average Regional allocation to at least 15 percent over a 5-year period, the Regional Director may require those States in the Region that allocated less than 15 percent over the 5-year period to make the changes needed before the end of the fifth year. The Regional Director must not require a State to increase or decrease its allocation if it allocated at least 15 percent over the 5-year period.

(3) The Regional Director must notify all States in the Region of each State's initial recreational boating access allocation and the Regional percentage no later than 30 days after the States give the Regional Director that information. The Regional Director must notify all States in the Region of each State's final recreational boating access allocation and the Regional percentage between October 1 and October 15 of the fifth year.

(4) If the Regional Director approves, a State may change its current-year allocation up to, but not after, the close of the Federal fiscal year for which we apportioned the funds.

7.9 How long do States have to apply to use recreational boating access funds? WSFR must ensure that States apply to use recreational boating access funds in the year that the State receives them or in the four following fiscal years.

7.10 What is a Federal obligation of funds and how does it occur? A Federal obligation of funds is a legal liability to disburse funds. A Federal obligation occurs when the following series of actions is complete:

A. WSFR must communicate the amount available to each State according to the apportionment formula in the Dingell-Johnson Sport Fish Restoration Act.

B. Each State:

(1) Sends the Regional Director an application for Federal assistance to use funds available under the Act,

(2) Commits to provide the required match, and

(3) Proposes to use these funds for specific activities that are eligible under the subprogram and demonstrates compliance with applicable laws and regulations.

C. The Regional Director notifies the applicant that the application is approved and states the terms and conditions of the award.

D. The applicant accepts the terms and conditions of the award by:

(1) Starting work,

(2) Drawing down funds, or

(3) Sending the Regional Director a letter, fax, or email in which it accepts the terms and conditions of the award.

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7.11 What if the State's application to use recreational boating access funds does not result in a Federal obligation during that fiscal year or the four following fiscal years? If the State's application to use recreational boating access funds does not result in a Federal obligation during that fiscal year or the four following fiscal years:

- A. The funds revert to the Service, and
- B. We use the reverted funds for reapportionment among the States the following fiscal year.

7.12 What must recreational boating access projects seek to accomplish to receive funds under the subprogram?

- A. Recreational boating access projects must seek to acquire, develop, renovate, maintain, or improve facilities that create or improve public access to the waters of the United States or improve the suitability of these waters for recreational boating. These facilities may include auxiliary structures to ensure safe use by recreational boaters. Projects may include surveys to determine information needed to plan for providing access to recreational waters for any size or type of recreational boat. Exhibit 1 gives examples of the types of activities that are eligible and those that are not eligible.
- B. A broad range of access facilities and associated amenities that benefit recreational boaters may qualify.
- C. Facilities funded through the subprogram must be available to all recreational boaters, but States may restrict uses for public safety, property protection, noise abatement, or aquatic resource protection. Examples of restrictions include limiting the horsepower or types of boat motors and setting speed limits, no-wake zones, or hours of use.

7.13 May WSFR fund maintenance and operations projects?

- A. WSFR may fund maintenance and operations of boating access sites, facilities, and structures, even if the Sport Fish Restoration program did not fund their acquisition or construction.
- B. WSFR may fund custodial and cyclical maintenance either in the same grant or in separate grants. Custodial maintenance includes routine or recurring tasks such as housekeeping and minor repairs, and the supplies, materials, vehicles, equipment, and tools necessary to do the work. Cyclical maintenance includes major repairs or renovations that States or their subgrantees conduct at intervals normally greater than 1 year.
- C. States are responsible for maintenance of all capital improvements they acquire or construct using Sport Fish Restoration funds throughout the improvement's planned useful life.

7.14 What is the effect on funding when a project benefits users other than recreational boaters?

- A. If the primary purpose of a project is to benefit recreational boaters, and other uses are clearly incidental or secondary, WSFR may fund the projects using recreational boating access funds.
- B. If the primary purpose of a facility is to benefit users who are not recreational boaters, or if it is clearly intended for mixed usage, WSFR must ensure that the State divides costs among the users. The method a State uses to divide costs must distribute costs equitably based on the relative uses or benefits provided. For example, a community survey may demonstrate that only 40 percent of the likely users of the facility will be recreational boaters. In this case, the State may use Federal funds available through the subprogram and the

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associated match to fund 40 percent of the costs of the facility. The State must use another source of funds to pay for the remaining 60 percent of the costs of the facility.

C. Examples of activities where the States must divide costs are:

(1) Camping, picnicking, toilet, shower, or parking facilities that are not at the site of a recreational boating access facility and are frequented by land access and water access users.

(2) Services at recreational boating facilities that also offer swimming, shore fishing, or any other activity not designated for recreational boat use.

(3) Harbors of safe refuge for use in bad weather or marinas designed for a mix of commercial vessels and recreational boats.

(4) Acquisition, impoundment, or maintenance of reservoirs designed for uses in addition to recreational boating.

(5) Concession, service, or administration buildings intended to serve recreational boaters as well as other user groups.

(6) Publication of access and angling guides that cover more than recreational boating access.

(7) Safety and navigation aids that facilitate movement of recreational boats from the boat launch to open water, but also benefit commercial vessels or private marinas. These safety and navigation aids may include minor dredging and aquatic vegetation removal.

(8) Miscellaneous projects that may also benefit commercial vessels, such as jetties or operation of locks.

/sgd/ Stephen Guertin
DEPUTY DIRECTOR

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