

BIG Final Rule

July 21, 2015 Webinar

Link to recording: <http://wsfr.adobeconnect.com/p5a1lhg7ik3/>
(Apologies - recording starts a few seconds into the webinar)

Powerpoint/Lisa on new rule: [BIG Final Rule Review_20July2015.pptx](#)

Powerpoint/Paul on history, trends, and NOFO: [BIG Presentation_7-21-15.pptx](#)

Boating Infrastructure Grant Program (BIG) Final Rule Published

The BIG Final rule published in the Federal Register on May 6, 2015. [BIGFinalRule_80FR26150_6May2015.pdf](#)

Below are highlights of the rule and how it has changed from the 2001 rule. We encourage States and other interested parties to use the comment box at the bottom of the page to share questions or statements. We will review entries and post responses as appropriate. Please watch this page for information on future webinars and other guidance.

Contact: Lisa_Van_Alstyne@fws.gov

NOTE: The document is 26 pages long, but the rule itself starts on page 13 (the page with 26161 in the upper, left corner). You may find it useful to start there when reading the rule for the first time.

The following subparts of the 2001 Final rule are removed:

Subpart J—Service Completion of the National Framework
Subpart K—How States Will Complete Access Needs Surveys
Subpart L—Completing the Comprehensive National Assessment
Subpart M—How States Will Complete the State Program Plans

The following topics have been clarified in this Final rule:

- The Service may apply penalties if we determine you have purposely misrepresented anything in your application.
- Public communication actions that directly relate to the BIG-funded facility or BIG itself are eligible, but those promoting the agency or facility are not eligible.
- The differences between maintenance, operation, and janitorial actions.
- Tier 1-State grants may be used by States for BIG administration.
- Any interest in land or water (buying, renting, leasing, etc.) is INELIGIBLE.
- Program income.
- User fees.
- Public access.
- Day dock use.
- Revising grants.
- Information needed in a project statement.

The following changes are made in the BIG final rule:

GENERAL:

- The names of the two components of BIG have been changed to: **Tier 1-State** and **Tier 2-National**. This retains the familiar *Tier* designations while reflecting the level at which competitive decisions are made.
- Updating the Final rule for plain language and with references to 2 CFR 200.
- Expanding the rule in several locations to require or encourage applicants and grantees to use existing and emerging technologies to fulfill project objectives.
- Giving the Service more flexibility to work with applicants to resolve questions or problems in an application and continue to consider the application for funding, while also being fair to the competitive process. We specifically identify useful life and prorating, but other actions may be considered on a case-by-case basis.
- Emphasis throughout on considering all aspects of the project and considering ways to make the project more resilient, extend its useful life, and reduce risk.

MORE SPECIFIC:

- Removing the term *trailerable* in the Final rule when defining eligible vessels. This is done purposely to allow BIG-funded facilities at bodies of water that are not navigably connected to other water bodies, but would support transient boaters.
- Defining *capital improvement*, attaching a value of \$25,000 to the definition, and relating *capital improvement* to *useful life*.

- Removing the 20-year requirement for a BIG-funded facility and using the useful life of capital improvements in the BIG-funded project to determine how long an operator must maintain a BIG-funded facility for its intended purpose.
- Defining how to estimate useful life and options for applicants and States for determining useful life as it applies to the requirements of the grant.
- Defining *transient boater* as an eligible vessel staying up to 15 days (an increase from 10 days) .
- When dredging meets the criteria as part of a BIG-funded project, allowing the grantee to use up to \$200,000 in BIG funds for dredging.
- Removing the restrictions that allow only dredging for the "direct route between open water and docks."
- Removing the need for letters of commitment from partners. However, applicants must demonstrate partnerships in the application to receive points for that criterion.
- Expanding circumstances for using BIG funds for maintenance to allow States to freely use Tier 1-State grant funds for maintenance as they determine is best for the program. Tier-2 grantees may also use BIG funds for maintenance (unless instructed otherwise by their State) that is required to complete the project and completed during the period of performance.
- Allowing water depths less than 6 feet if the applicant demonstrates the project can still serve the typical user at that location.
- Encouraging (but not requiring on a Federal level) using CVA funding for pumpouts.
- Defining circumstances for waiving the pumpout requirement.
- Making INELIGIBLE: roads, parking lots, etc.
- Stating that an applicant/grantee cannot use the value of existing buildings as match unless preaward costs approved.
- Describing how to pro-rate a project. This includes: 1) if there is a secondary (non-eligible) benefit to a project that doesn't interfere or detract from the BIG-funded project, your application will not be deemed ineligible, and 2) if a project component/action has minimal value, there is flexibility to waive prorating.
- Adjusting UP the minimum award for Tier 1-State grants to \$200,000. The Service has flexibility to increase that amount if funding is available and it is in the best interest of the program.
- Implementing time restrictions on a BIG project.
- Requiring a Notice of Federal Participation and listing as eligible the costs for recording the Notice.
- Requiring grantees use symbols and language to credit Sport Fish Restoration for the grant.
- Requiring communicating BIG-funded facility information to the public.
- Encouraging Tier 2-National applicants to describe ranking criteria as part of their project statement.

Changes in Ranking Criteria:

[Boating Infrastructure Grant Program Final Rule Comparison.docx](#)

Items of Note Related to Ranking Criteria:

- Each criterion has a point range for scoring
- The maximum points is reduced from 105 to 36
- Approach to "need" and "cost efficiency" changed to allow new facilities where none existed before to compete as well as new facilities on an existing marina footprint
- Consideration for increased costs when justified by the circumstances (Ex: transportation or labor costs in a certain area) or increased response to need (Ex: higher quality materials that extend useful life)
- Encouraging applicants to address services available in the area to eligible boaters, as well as other amenities of the project. Slips, fuel, etc. are nice, but transient boaters also want access to supplies, entertainment, etc.
- A table that establishes how many points an applicant may receive for additional match above the required match.
- Allowing consideration for the combined contributions of partners
- Requiring the applicant to justify the contributions of a partner
- Considering additional points for projects that include components, technology, or techniques that improve the project or access to the project
- Adding a point to the score for applicants where the facility has achieved recognition for voluntary commitment to environmental compliance, sustainability, and stewardship by exceeding regulatory requirements