

# Recreational Boating Access Subprogram

The **Recreational Boating Access Subprogram** provides Federal funding to State fish and wildlife agencies for the construction of recreational boating access sites.



This information applies to:

*Sport Fish Restoration Program*

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## Overview

The Recreational Boating Access Subprogram, part of the Sport Fish Restoration Program, funds projects that provide recreational boaters with access to America's waterways by developing new access facilities and renovating or improving existing facilities. The program mandates that States use 15 percent of DJ funding on recreational boating access projects. In addition, the BA program funds fish cleaning stations, parking areas, and restrooms, among other boating amenities.

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## Authorities

### 16 U.S.C. Code chapter 10B - Fish Restoration and Management Projects

#### § 777g(b) Funding Requirements

(1) Each State shall allocate 15 percent of the funds apportioned to it for each fiscal year under section 777c of this title for the payment of up to 75 percent of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes. Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 15 percent in a fiscal year, provided that the total regional allocation averages 15 percent over a 5 year period.

(Aug. 9, 1950, ch. 658, §8, 64 Stat. 433; Pub. L. 91-503, title II, §202, Oct. 23, 1970, 84 Stat. 1103; Pub. L. 98-369, div. A, title X, §1014(a)(6), July 18, 1984, 98 Stat. 1016; Pub. L. 102-587, title V, §5604(b), Nov. 4, 1992, 106 Stat. 5088; Pub. L. 105-178, title VII, §§7402(c), 7404(b), June 9, 1998, 112 Stat. 484, 486; Pub. L. 105-206, title IX, §9012(c), July 22, 1998, 112 Stat. 864; Pub. L. 109-59, title X, §10114, Aug. 10, 2005, 119 Stat. 1928; Pub. L. 114-94, div. A, title X, §10001(d), Dec. 4, 2015, 129 Stat. 1621.)

## 50 CFR 80 Administrative Requirements, Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts

### § 80.51 What activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act?

The following activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act:

[...]

(b) Sport Fish Restoration—Recreational Boating Access subprogram.

(1) Acquire land for new facilities, build new facilities, or acquire, renovate, or improve existing facilities to create or improve public access to the waters of the United States or improve the suitability of these waters for recreational boating. A broad range of access facilities and associated amenities can qualify for funding, but they must provide benefits to recreational boaters. "Facilities" includes auxiliary structures necessary to ensure safe use of recreational boating access facilities.

(2) Conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

(c) Sport Fish Restoration—Aquatic Resource Education subprogram. Enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment.

### § 80.61 What requirements apply to funds for the Recreational Boating Access subprogram?

The requirements of this section apply to allocating and obligating funds for the Recreational Boating Access subprogram.

(a) A State fish and wildlife agency must allocate funds from each annual apportionment under the Dingell-Johnson Sport Fish Restoration Act for use in the subprogram.

(b) Over each 5-year period, the total allocation for the subprogram in each of the Service's geographic regions must average at least 15 percent of the Sport Fish Restoration funds apportioned to the States in that Region. As long as this requirement is met, an individual State agency may allocate more or less than 15 percent of its annual apportionment in a single Federal fiscal year with the Regional Director's approval.

(c) The Regional Director calculates 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.

(d) If the total Regional allocation for a 5-year period is less than 15 percent, the State agencies may, in a memorandum of understanding, agree among themselves which of them will make the additional allocations to eliminate the Regional shortfall.

(e) This paragraph applies if State fish and wildlife agencies do not agree on which of them will make additional allocations to bring the average Regional allocation to at least 15 percent over a 5-year period. If the agencies do not agree:

(1) The Regional Director may require States in the Region to make changes needed to achieve the minimum 15-percent Regional average before the end of the fifth year; and

(2) The Regional Director must not require a State to increase or decrease its allocation if the State has allocated at least 15 percent over the 5-year period.

(f) A Federal obligation of these allocated funds must occur by the end of the fourth consecutive Federal fiscal year after the Federal fiscal year in which the funds first became available for allocation.

(g) If the agency's application to use these funds has not led to a Federal obligation by that time, these allocated funds become available for reapportionment among the State fish and wildlife agencies for the following fiscal year.

[76 FR 46156, Aug. 1, 2011]

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## Frequently Asked Questions

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### How long are Boating Access subprogram funds available for obligation once they are allocated to the Boating Access subprogram?

Boating Access funds are available for obligation to a grant for a total of 5 years before they revert.

### What happens to reverted Boating Access subprogram funds?

Reverted Boating Access subprograms are returned to the Sport Fish Restoration program and are reapportioned to the States during the following fiscal year.

### Does a State fish and wildlife agency have to allocate 15 percent of its annual Sport Fish Restoration apportionment each year into its Boating Access subprogram?

No. § 50 CFR 80.61(b) states that "Over each 5-year period, the total allocation for the subprogram in each of the Service's geographic regions must average at least 15 percent of the Sport Fish Restoration funds apportioned to the States in that Region. As long as this requirement is met, an individual State agency may allocate more or less than 15 percent of its annual apportionment in a single Federal fiscal year with the Regional Director's approval."

## **How do I allocate funding from my State's annual Sport Fish Restoration apportionment into the Boating Access subprogram?**

Each Region may have its own policies and preferred methods for its States to allocate Sport Fish Restoration funds into the Boating Access subprogram. Some Regions request an official letter from the State documenting the specific amount of funds to be allocated into the Boating Access subprogram. Other Regions may accept an email from the State Federal Aid Coordinator with the same information. Please contact your Regional office and inquire as to the preferred method for allocating funds to the Boating Access subprogram.

## **What happens if a Region fails to meet the 15 percent average during a specific 5-year period?**

§ 50 CFR 80.61(d) states that "*If the total Regional allocation for a 5-year period is less than 15 percent, the State agencies may, in a memorandum of understanding, agree among themselves which of them will make the additional allocations to eliminate the Regional shortfall.*" If the State fish and wildlife agencies do not agree on which of them will make additional allocations to bring the average Regional allocation to at least 15 percent, then § 50 CFR 80.61(e)(1-2) states that "*(1) The Regional Director may require States in the Region to make changes needed to achieve the minimum 15-percent Regional average before the end of the fifth year; and (2) The Regional Director must not require a State to increase or decrease its allocation if the State has allocated at least 15-percent over the 5-year period.*"

## **Once I allocate funding from my State's annual Sport Fish Restoration apportionment into the Boating Access subprogram, can I transfer it back into the Sport Fish Restoration subprogram?**

You may transfer funding out of the boating access subprogram only during the current fiscal year in which the money was initially transferred. For example, during FY2015, a State allocates \$500,000 of its FY15 Sport Fish Restoration apportionment into its boating access subprogram. It may transfer any of this funding out of the boating access subprogram and back into the Sport Fish Restoration subprogram at any point during FY15. Once FY15 ends, then all remaining FY15 funds allocated into the boating access subprogram must remain within the subprogram.

## **Is the 5-year period a rolling average or is it a set, defined 5-year period?**

The 5-year period is a set, defined period and not a rolling average. The 5-year periods are 2008-2012, 2013-2017, 2018-2022, and each subsequent 5-year period thereafter.

## **If a State allocates 15 percent or more during the 5-year period, yet the Region fails to meet the 15 percent average, can that State be required to increase its Boating Access allocation in order for the Region to meet the 15 percent average during the 5-year period?**

No. § 50 CFR 80.61(e)(2) states that "*The Regional Director must not require a State to increase or decrease its allocation if the State has allocated at least 15 percent over the 5-year period.*"

## **How is the Boating Access subprogram safety margin calculated?**

The Boating Access subprogram safety margin is calculated by taking the sum of the last four Federal fiscal years boating access allocations and then subtracting the end of the current Federal fiscal year's unobligated balance of Boating Access subprogram funds. For example: The State of Grace's last four fiscal years boating access allocations was \$22,000 (FY15 - \$5,000; FY14 - \$5,000; FY13 - \$4,000; FY12 - \$4,000; FY11 - \$4,000). The state's unobligated balance of Boating Access subprogram funds at the end of FY15 was \$5,000. Therefore, the state's FY15 Boating Access subprogram safety margin is \$17,000 (\$22,000 - \$5,000 = \$17,000).

## **What happens to Boating Access grant funds that remain unexpended after the close of a grant?**

Boating Access funds that remain unexpended at the close of a grant must pass through a safety margin calculation in order for the state fish and wildlife agency to recover the funds. They first pass through the safety margin established during the Federal fiscal year in which the funds were obligated to the grant. Any funds that pass through that safety margin must then pass through all subsequent years safety margins. If funds successfully pass through each safety margin, then the funds are recovered and made available for future years obligations. If funds fail to pass through any safety margins, then the funds reverts back to the Sport Fish Restoration program and gets reapportioned to all States during the subsequent fiscal year.

## **What happens to Boating Access grant funds that are deobligated from a grant award during the same fiscal year in which the funds were initially apportioned to the State?**

States may deobligate boating access funds from a grant award during the same fiscal year in which the funds were initially apportioned and the funds will return to the State's boating access allocation. The funds remain available for a future obligation during their period of availability. The deobligated funds do not go through the safety margin calculation. They simply return to the State's boating access allocation.

## **What happens to Boating Access grant funds that are deobligated from a grant award during a subsequent fiscal year in which the funds were initially apportioned to the State?**

States may deobligate boating access funds from a grant award during a subsequent fiscal year in which the funds were initially apportioned, however, the funds would need to pass through the safety margin calculation before they will recover and return to the State's boating access allocation.

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[Clean Vessel Act \(CVA\)](#)

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