



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE

**RI BOATING INFRASTRUCTURE
GRANT PROGRAM
RULES AND REGULATIONS**

June 4, 2001

AUTHORITY: These regulations are adopted pursuant to Chapters 42-17.1 of the Rhode Island General Laws of 1956, as amended.

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RULE #1 - PURPOSE

The purpose of these rules and regulations is to establish both the procedures whereby applications for reimbursement for improvements in boating infrastructure may be submitted to the Division of Fish and Wildlife, and the standards under which such applications may be considered in order to determine which applications should be awarded partial reimbursement from funds made available to the State of Rhode Island from the federal government pursuant to the National Boating Infrastructure Grant Program 50 C.F.R. Part 86 et seq..

RULE #2 - AUTHORITY

These rules and regulations are promulgated pursuant to RI General Laws Chapter 42-17.1, in accordance with the Chapter 42-35, the Administrative Procedures Act, of the General Laws of the State of Rhode Island of 1956, as amended.

RULE #3 - ADMINISTRATIVE FINDINGS

In order to properly implement a recently established federal program to provide funding assistance for the boating infrastructure program, the Division of Fish and Wildlife is required to adopt these rules and regulations to establish the procedures whereby applications for reimbursement for improvements in boating infrastructure may be submitted to the Division of Fish and Wildlife, and the standards under which such applications may be considered.

RULE #4 - APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Division to effectuate the purposes of state law, and the goals, and policies of the National Boating Infrastructure Grant Program 50 C.F.R. Part 86 et seq.

RULE #5 - SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE #6 – REGULATIONS

1.0 PROPOSALS FOR REIMBURSEMENT

The Department of Environmental Management Division of Fish and Wildlife incorporates by reference and hereby adopts the regulations published in the Federal Register on January 18, 2001 and promulgated by the United States Department of Interior in order to establish the National Boating Infrastructure Grant Program, 50 C.F.R. Part 86 et seq.

2.0 STANDARDS FOR CONSIDERATION OF PROPOSAL

The standards for the Department’s consideration and ranking of applications for the awarding of reimbursement grants for Tier I projects shall be those standards and rankings which were adopted by the Department of Interior Fish and Wildlife Service for consideration and ranking of Tier II projects pursuant to 50 C.F.R. Part 86.60.

3.0 DEFINITIONS OF TERMS

In addition to those definitions set forth in 50 C.F.R. Part 86.12, the following definition shall be adopted for terms employed in these rules and regulations:

DEPARTMENT shall mean the Department of Environmental Management.

DIRECTOR shall mean the Director of the Department of Environmental management.

DIVISION shall mean the Division of Fish and Wildlife of the Department of Environmental Management.

TIER I PROJECTS are defined at 50 C.F.R. Part 86.53(d)(1).

TIER II PROJECTS are defined at 50 C.F.R. Part 86.53(d)(2).

4.0 COMPLIANCE OBLIGATIONS

In order to be issued a reimbursement grant, an applicant is required to execute a copy of the “Rhode Island Boating Infrastructure Grant Program Grant Award Agreement” which is attached to these rules and regulations and is designated as Appendix A.

5.0 APPEALS PROCESS

Applicants for grant reimbursement and respondents who may be the object of enforcement actions by the Division who alleged noncompliance with the Rhode Island Boating Infrastructure Grant Program Grant Award Agreement, may request a hearing before the Department’s Administrative Adjudication Division if such request is filed with the Administrative Adjudication Division within the time period provided pursuant to RI General Laws § 42-17.7-9.

Rhode Island Boating Infrastructure Grant Program
Grant Award Agreement

This Agreement is made this _____ day of _____, 20__ between _____ of _____, hereinafter referred to as the “Grantee” and the STATE OF RHODE ISLAND through the DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, DIVISION OF FISH and WILDLIFE hereinafter referred to as the “State”.

WHEREAS, the Grantee has made application for issuance of a partial reimbursement grant in order to obtain financial assistance for the completion of construction or modification of the subject facilities pursuant to Rhode Island Boating Infrastructure Grant Program Rules and Regulations (The “Rules and Regulations”), the terms and conditions of said Rules and Regulations are hereby incorporated herein;

WHEREAS, the State has granted the Application (the “Grant”);

WHEREAS, compliance with the conditions of this Agreement and of the Rules and Regulations are deemed essential to the State, noncompliance may result in the Grantee being obligated to reimburse the State for the Grant received by the Grantee.

WITNESSETH: In consideration of the Premises, the contained in this Agreement and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Grantee and the State hereby covenant and agree as follows:

The Grantee agrees:

- (a) to ensure that any funded facility is equally available to all recreational boaters, including those with physical handicaps, on a non-discriminatory first-come, first-served basis.
- (b) To build, operate, and maintain the facility according to plans and specifications submitted to and approved by the State prior to the expenditure of any funds, and to do so for a period of twenty (20) years after project completion.
- (c) To ensure that subject facilities are open according to a posted schedule for sufficient period and at appropriate times each day to reasonably accommodate the boating public and encourage use.
- (d) To obtain all necessary permits and comply with all relevant federal, state, and local legal requirements before commencing and through the operation of the subject facilities.

- (e) To maintain detailed accurate, current, and complete financial records relative to the project and to facility operations and maintenance. To support these records with appropriate documentation including, but not limited to, canceled checks, paid bills, payrolls, time and attendance records, contract and sub-contract award documents.
- (f) To retain and account for all fees charged for the use of a funded facility.
- (g) To retain all financial records and documents for a period of three (3) years after the grant reimbursement or until any litigation, claim, negotiation, audit, or other action involving such records has been completed, whichever is longer. To make these records available for inspection by the State at the Grantee's place of business or the Division's headquarters within twenty-four (24) hours of Grantee's receipt of the State's request to inspect.
- (h) To retain fees revenue records for a period of three (3) years following receipt or until any litigation, claim, negotiation, audit, or other action involving such records has been completed, whichever is longer. To make these records available for inspection by the State at the Grantee's place of business or the Division's headquarters within twenty four (24) hours of Grantee's receipt of the State's request to inspect.
- (i) To pursue all reasonable and prudent measures to obtain the best available price for any goods or services, including construction services, for which reimbursement is sought by the Grant. This is to be demonstrated by obtaining multiple itemized price quotes or bids wherever possible.
- (j) To afford qualified minority business enterprises a reasonable opportunity to submit proposals, rate quotations or bids; to select minority firms, where possible they submit the lowest qualified bid in accordance with the requirements of RI General Laws §37-14-1.
- (k) To hold the State harmless in case of property damage, accidental death or injury caused by or incidental to the construction, modification, operation, and/or use of any facility or equipment built or purchased with grant funds.
- (l) To comply with the requirements of the Governor's Executive Order No. 91-14, The State's Drug Free Workplace Policy, and the Federal Omnibus Drug Abuse Act of 1988. The Grantee acknowledges that a violation of the Drug Free Workplace Policy may at the State's option, result in the termination of this Agreement.

2. The State, on its part, agrees to pay to the Grantee, the sum of not more than _____ which payments will be in the form of reimbursement of _____percent (_____%) of actual approved project costs, subject to submission of appropriate documentation of expenditure.

3. The Grantee acknowledges the State's right to take whatever means either administratively or judicially, the State may seek, including *inter alia*, any of the following actions if the Grantee materially fails to comply with any term of this Grant Agreement, after being notified and afforded a reasonable opportunity to correct such non-compliance:

- (a) temporarily suspend or withhold grant reimbursement pending correction of the deficiency;
- (b) disallow or refuse to pay for all or part of the cost of a non-complying, unapproved or intangible expenditure;
- (c) terminate the grant and permanently suspend all further payments; and/or
- (d) recover grant funds already expended in cases of serious or deliberate non-compliance, fraud, or abuse.

Signature of the Chief of Division of Fish and Wildlife:

Date:

Signature of [Grantee and his capacity with the facility:]

Date:

Subscribed and sworn to before me this _____ day of _____, 2000 _____ in the City/Town of _____, County of _____, State of _____.

Notary Public
My Commission Expires: _____

Rule # 7. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this _____ day of _____, 20 to become effective 20 days from filing, unless otherwise indicated, in accordance with the provisions of Chapters 20-3-2 through 20-3-6, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

Jan H. Reitsma, Director

Notice Given: 4/12/01
Public Hearing: 5/14/01

Filing date: 6/4/01
Effective date: 6/24/01