

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: Department of Environmental Management
DIVISION: Fish and Wildlife
RULE IDENTIFIER: 250-RICR-60-00-8; ERLID #: 726
REGULATION TITLE: RI Boating Infrastructure Grant Program Rules and Regulations
RULEMAKING ACTION: Direct Final

Direct Final: If no formal objection is received on or before Thursday, March 15, 2018 Department of Environmental Management will file the amendment without opportunity for public comment.

TYPE OF FILING: Amendment

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice: Tuesday, February 13, 2018.

End of Comment Period Date: Thursday, March 15, 2018.

SUMMARY OF PROPOSED RULE: 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. § 86.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **Thursday, March 15, 2018**, to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Ashley Schipritt
Department of Environmental Management
Division of Fish and Wildlife
3 Fort Wetherill Road
Jamestown, RI 02835

Email Address: ashley.schipritt@dem.ri.gov

WHERE COMMENTS AND PROPOSED REGULATION MAY BE INSPECTED:

Mailing Address: Department of Environmental Management
Office of Customer and Technical Assistance, 2nd Floor
235 Promenade Street
Providence, RI 02908
(401) 222-6822

FOR FUTURE INFORMATION CONTACT:

Ashley Schipritt
Department of Environmental Management
Division of Fish and Wildlife
3 Fort Wetherill Road
Jamestown, RI 02835
ashley.schipritt@dem.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation: N/A

Authority for This Rulemaking: R.I. Gen. Laws Chapters 4-17.1

Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Amendment: The purpose of this amendment is to reformat the regulation in accordance with the RICR and to remove non-regulatory materials.

Department of Environmental Management proposes to amend 250-RICR-60-00-8. Electronic copies of the proposed rulemaking are available at the Secretary of State and DEM's website at the following web addresses:

<http://sos.ri.gov/ProposedRules/>

<http://www.dem.ri.gov/documents/regulations/index.php>

250-RICR-60-00-8

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 60 - FISH AND WILDLIFE

SUBCHAPTER 00 - N/A

PART 8 - RI Boating Infrastructure Grant Program Rules and Regulations

8.1 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. § 86 (2017).

8.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-17.1, and in accordance with the R.I. Gen. Laws Chapter 42-35, the Administrative Procedures Act.

8.3 Administrative Findings

In order to properly implement an ~~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.

8.4 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. § 86 (2017).

8.5 Incorporated Materials

These regulations hereby adopt and incorporate 50 C.F.R § [86 \(2017\)](#) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

8.6 Definitions of Terms

A. In addition to those definitions set forth in 50 C.F.R. § 86.12, the following definition shall be adopted for terms employed in these Rules and Regulations:

1. "Department" means the Department of Environmental Management.
2. "Director" means the Director of the Department of Environmental Management.
3. "Division" means the Division of Fish and Wildlife of the Department of Environmental Management.
4. "Tier I projects" means at 50 C.F.R. § 86.53(d)(1).
5. "Tier II projects" means at 50 C.F.R. § 86.53(d)(2).

8.7 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.

8.8 Regulations

A. Proposals for Reimbursement

1. 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. § 86 [\(2017\)](#).

B. Standards for Consideration of Proposal

1. 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. § 86.60.

C. Compliance Obligations

1. 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^{t.}"

D. Appeals Process

1. 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 R.I. Gen. Laws § 42-17.7-9.