

Chapter NR 7

RECREATIONAL BOATING FACILITIES PROGRAM

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NR 7.01 Purpose. The purpose of this chapter is to establish directions for the implementation of the safe recreational boating facilities program in order to provide easy access to all waters of the state giving due regard to the need for environmental quality and the needs of all the population for water based recreation.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79.

NR 7.02 Applicability. The provisions of this chapter are applicable to all governmental units and qualified lake associations applying for financial assistance for safe recreational boating projects under s. 30.92, Stats.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. Register, December, 1986, No. 372, eff. 1-1-87; am. Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.03 Definitions. The following definitions are applicable to terms used in this chapter.

(1) "Approval" means the signing by the secretary or secretary's designee of a project agreement that encumbers a specified amount of state aid funds for a specific purpose.

(2) "Commission" means the Wisconsin waterways commission appointed by the governor under s. 15.345, Stats.

(3) "Department" means the Wisconsin department of natural resources.

(4) "Feasibility study" means an investigation of the environmental, economic and engineering aspects of a safe recreational boating facility project to determine if the project may be successfully carried out.

(5) "Force account" means the forces and resources of a sponsor including the use of the sponsor's own employees and equipment for construction, construction related activities (including architectural or engineering services), repair or improvement to a facility.

(6) "Fringe benefits" means employers' contributions or expenses for social security, employee's life and health insurance plans, unemployment insurance coverage, worker's compensation insurance, pension retirement plans and employee benefits in the form of regular compensation and sick, court or military leave.

(7) "Governmental unit" means the department, a city, village, town, county, public inland lake protection and

rehabilitation district organized under ch. 33, Stats., or the Fox river management commission.

(8) "Indirect costs" means those costs not directly assignable to a project. Such costs are generally administrative in nature, are incurred for a common or joint purpose, or are not readily assignable to a project.

Note: Examples of indirect costs include central office heat, light, utilities, administrative salaries, secretarial services, postage, etc., which are not supported by time reports or other documentation which links the expenditure to a particular project.

(9) "Project" means a specific recreational boating facility development, dredging of channels of waterways for recreational boating purposes, acquisition of capital equipment necessary to cut and remove aquatic plants, and acquisition of aids to navigation and regulatory markers.

(10) "Project agreement" means a contract between the sponsor and department setting forth the obligations with regard to a portion or all of a specific project.

(11) "Project period" means the period of time specified in the project agreement during which all work shall be completed or all items acquired.

(12) "Project priority list" means a ranking by the commission of various safe recreational boating facility projects in the order of their scheduled receipt of funds.

(13) "Qualified lake association" has the meaning given in s. 30.92 (1) (br), Stats.

(14) "Safe recreational boating facilities" means places where the public has access to the water by means of breakwaters and other similar physical structures, either naturally or artificially constructed, which provide safety and convenience for operators of recreational watercraft. "Recreational boating facilities" also includes locks and facilities which provide access between waterways for operators of recreational watercraft. Safe recreational boating facilities on the Great Lakes are commonly referred to as harbors of refuge. Safe recreational boating facilities on inland waters are commonly referred to as public accesses or launching ramps.

(15) "Secretary" means the secretary of the department.

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(16) "Sponsor" means a governmental unit or qualified lake association receiving assistance under this chapter.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; r. (3), renum. (1), (2), (4) to (7) to be (2), (3), (5), (8), (9) and (1) and am. (9), cr. (4), (6), (7) and (10), Register, December, 1986, No. 372, eff. 1-1-87; renum. (1) to (10) to be (2) to (4), (7), (9) to (12), (14) and (15) and am. (9) and (11), cr. (1), (5), (6), (8), (13) and (16), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.04 General aids provisions. **(1)** Claims for payment shall be submitted within 6 months after the project termination date.

(2) (a) Except as provided in pars. (b) and (c) expenditures shall be within the project period, project scope, and project amount as shown on the project agreement.

(b) Expenditures for necessary engineering or planning costs made prior to entering a project agreement may be reimbursed by the department.

(c) Expenditures for the acquisition of aids to navigation or regulatory markers made prior to entering a project agreement may be reimbursed by the department.

(3) A request for a project extension shall be submitted prior to the project termination date.

(4) All payments are contingent upon final audit. All financial records, including all documentation to support entries in the accounting records to substantiate changes for each project, shall be kept available by sponsors for review by state officials for a period of 3 years after final payment.

(5) Grants of financial assistance for recreational boating facilities shall be consistent with the provisions of ss. NR 1.90, 1.92 and 1.93.

(6) Prior to project review by the commission, the sponsor shall have obtained all permits required under ch. 30, Stats.

(7) Sponsors shall comply with all applicable state and federal regulations regarding bidding and awarding contracts, wage and labor rates, access for individuals with disabilities, flood disaster protection, environmental quality and historical preservation.

(8) (a) Sites to be developed with recreational boating facilities funds shall be owned in fee simple by a sponsor or the sponsor shall hold a lease or easement for the site. When a site to be developed is leased or subject to an easement, the degree of control over the site by the sponsor and the period of time that the lease or easement continues shall be factors in determining the amount of recreational boating facilities funds to be granted to the project. The minimum length of the lease or easement shall not be less than 20 years and shall include the right to construct, operate and maintain a recreational boating facility.

(b) The total amount of assistance from the recreational boating facilities program and other state or federal funds for projects on lands owned by the department and leased or for which the department has entered an agreement or lease with a sponsor to develop and maintain a recreational boating facility may not exceed 90% of the eligible project costs. No more than 50% of the eligible project costs may be funded with recreational boating facilities monies.

(9) Donated labor, materials, land or other activities which do not result in an actual expenditure by the sponsor and indirect costs are not eligible project costs.

(10) Direct costs which are supported by time sheets, vouchers or similar documentation reflecting specific assignment to a project are eligible project costs.

(11) Actual fringe benefits paid as part of the direct labor costs claimed are eligible project costs.

(12) The department may approve, with the concurrence of the commission, variances from nonstatutory requirements of this chapter upon the request of a sponsor when the department determines that a variance is essential to effect necessary grant actions or program objectives, and where special circumstances make a variance in the best interest of the program. Before granting a variance, the department shall take into consideration such factors as good cause and circumstances beyond the control of the sponsor.

(13) Sponsors shall agree to operate and provide adequate maintenance of facilities and projects assisted with recreational boating facilities funds.

(14) Recreational boating facilities developed under this chapter may not be converted to other uses without prior approval of the department.

(15) The actual costs of force account labor and equipment is eligible. Equipment rental rates may not exceed the county machinery rates established annually by the department of transportation.

History: Cr. Register, December, 1986, No. 372, eff. 1-1-87; renum. (2) to be (2) (a) and am., cr. (2) (b), (c), (5) to (15), am. (4), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.045 Qualified lake associations. **(1)** Applications from qualified lake associations shall consist of an organizational application and a project application. The organizational application shall include the following:

(a) Name and address of the lake association.

(b) Copy of the lake association by-laws or articles of incorporation.

(c) A resolution adopted by the governing body of the lake association:

1. Authorizing a representative to apply for grants on their behalf, sign documents and take necessary action to undertake, direct and complete the approved project.

2. Verifying that the association has sufficient funds to complete the project.

(d) A general description of the association including the number of members, frequency of meetings, membership qualifications and fees, age of association, purpose of the association, and a list of projects completed by the association in the last 3 years, if any.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.05 Eligible projects. Projects eligible for funding under this section consist of:

(1) Facilities such as ramps and boarding docks required to gain access to the water.

(2) Structures such as bulkheads and breakwaters necessary to provide safe water conditions for boaters.

(3) Activities such as dredging of launch basins and harbors of refuge to provide safe water depths for recreational boating. Dredging of launch basins or harbors of refuge is an eligible project only when it is associated with project development at the project site. Maintenance dredging of launch basins and harbors of refuge is not an eligible item for funding.

(4) Support facilities limited to parking lots, signs, sanitary facilities or security lighting for the convenience of boaters.

(5) Management and operation of locks and facilities which provide access between waterways for operators of recreational watercraft.

(6) Acquisition of aids to navigation and regulatory markers including ground tackle. Only the costs of the aids to navigation and regulatory markers including shipping and ground tackle are eligible for funds under this chapter. The cost of repairing, placing, moving or removing aids to navigation or regulatory markers is not eligible for funds under this chapter. A sponsor may not receive funds to replace individual aids to navigation or regulatory markers more than once every 5 years unless the sponsor can justify that replacement is necessary because of damage caused by collision with watercraft or natural occurrences.

(7) In addition to projects specified under subs. (1) to (6), the following projects are eligible for funding if they are projects for inland waters:

(a) Acquisition of capital equipment that is necessary to cut and remove aquatic plants that are aquatic nuisances or that are detrimental to fish habitat with the following limitations:

1. Eligible capital equipment shall be limited to cutting devices, barges with propelling motors, conveyors and trailering devices.

2. Acquisition of capital equipment is eligible only when the acquisition is pursuant to a plan to cut and remove aquatic plants that is approved by the department. If the capital equipment is to be used on more than one lake, each lake shall be covered by a department approved plan to cut and remove aquatic plants.

3. If a sponsor purchases new equipment, the department may not provide funds for the purchase of individual pieces of weed harvesting equipment more than once every 10 years. If a sponsor purchases used equipment, the 10 year limitation may be shortened to match the remaining years of utility of the equipment. If a sponsor sells any or all of the equipment funded under this chapter prior to the end of the 10 year or adjusted period, the sponsor shall repay the department 50% of the sale price.

(b) Dredging of a channel of a waterway to the degree necessary to accommodate recreational watercraft with the following limitations:

1. In order to be eligible for funds under this chapter, a channel to be dredged in a lake shall be defined by aids to navigation as defined in s. 30.74 (2) (b), Stats.

2. Cost sharing for dredging of a channel may be provided only for dredging the width of a channel to a distance of 25 feet on either side of the centerline of a river or 25 feet on either side of a center channel marker in a lake. The depth of the channel dredging shall be limited to the depth necessary to accommodate recreational watercraft commonly utilizing the waterbody.

3. Eligible costs of dredging a channel in a waterway include: engineering, including soil borings, dredging and mobilization, construction of a temporary holding area, and transportation of spoils. The cost of constructing re-ventments to permanently contain spoils is eligible if the sponsor can demonstrate that the cost of creating a land mass is less than the cost of the transportation of spoils to a disposal site or if a substantial benefit to the recreational boating public will accrue.

4. Ineligible costs include: any costs relating to planning, engineering, dredging, handling, processing, transporting or depositing of contaminated dredge spoils; the purchase of land rights for a spoils deposition area or the costs of landfill storage of spoils; costs of land treatment to cover up spoils deposit; and the cost of testing or monitoring as a condition of a state or federal permit.

5. For the purpose of s. 30.92 (4) (b) 2., Stats., the dredging of a channel in a waterway to the degree that is necessary to accommodate recreational watercraft pursuant to s. 30.92 (4) (b) 8. a., Stats., shall be considered a construction project.

6. A sponsor may not receive funds for dredging the same channel of a waterway more than once every 10 years.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; cr. (4) and (5), Register, December, 1986, No. 372, eff. 1-1-87; am. (1) to (4), cr. (6) and (7), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.06 Type and content of studies. (1) Feasibility studies shall be the basis for determining the feasibility of a safe recreational boating facility project and the rank of the project on the project priority list.

(2) All feasibility studies shall be site specific and completed in sufficient detail with appropriate maps, plans and text to allow the commission to determine the feasibility of the project. Where the commission finds a project is feasible and the project is supported by resolution of the affected governmental unit or qualified lake association, it shall be placed on the project priority list using the factors in s. 30.92 (3) (b), Stats.

(3) Detailed feasibility reports and environmental impact statements prepared by the U.S. army corps of engineers for small craft harbor projects are sufficient for the purpose of this section, provided that such reports or statements have been found to be acceptable to the department.

(4) Feasibility studies shall contain at a minimum the following items:

(a) *General information.* 1. Name and location of project.

2. Purpose of the project.

3. Work to be done accompanied by a detailed estimate of the cost of the project including the local share, the

requested amount of state funding and the extent of all other sources of funds.

4. Anticipated time schedule for project development.
5. Ownership of lands associated with the project.
6. Distance of nearest comparable safe recreational boating facility on the same body of water, where applicable.

(b) *Economic analysis.* The purpose of this analysis is to describe the anticipated level of use of the facility or project and associated benefits derived from such use for consideration by the commission when it evaluates the merits of various projects and establishes priorities for financial assistance. At a minimum for the development of safe recreational boating facilities, the analysis shall address:

1. An assessment of the demand for the project including an estimate of the number of users on an annual and peak period basis.
2. An estimate of annual revenues to be derived from any launch fees or associated costs.
3. An estimate of the current number of users of other comparable safe recreational boating facilities within the general area of the proposed project.
4. Past operation and maintenance costs where the project involves the improvement of an existing facility.
5. Estimated annual operation and maintenance costs for a new project.

(c) *Environmental analysis.* An environmental analysis shall be prepared for each safe recreational boating facility project. Because each proposed safe recreational boating facility site has certain unique physical characteristics, site specific environmental information must be collected. The scope and detail of this information shall be determined on a site-by-site basis after consultation with the department. This is intended to avoid any later problems regarding the environmental acceptability of the site.

(d) *Engineering analysis.* The engineering analysis shall include general plans and specifications of all physical improvements including, but not limited to, dredging, construction of ramps, piers and breakwaters and land alterations. The commission may require that the engineering analysis be certified by a registered professional engineer.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. (1), (2), (4) (a) 2.e., Register, December, 1986, No. 372, eff. 1-1-87; am. (1), (2) and (4) (b) (intro.), r. and recr. (4) (a), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.07 Applications for funding for feasibility studies. (1) Applications from governmental units or qualified lake associations for funding of feasibility studies are to be made to the department for presentation to the commission.

(2) The application shall be made on forms provided by the department and at a minimum contain the following:

Note: Application forms are available at any department district office.

(a) A resolution officially adopted by the governmental unit or qualified lake association authorizing a representative to act as agent for the governmental unit or lake

association for the signing of forms or claims and verifying that sufficient funds are available to complete the project.

(b) A detailed estimate of the cost of the feasibility study.

(3) After the review of an application, the department may request the applicant to submit more detailed information. The applicant may appeal any such request by written notice to the commission at least 10 days prior to the convening of the next regular commission meeting. The written notice to the commission shall specify the basis for the applicant's objection to the department's request for more detailed information.

(4) The department will fund a portion of those studies approved by the commission at a rate determined by the commission which is based upon the factors contained in s. 30.92 (2) (d), Stats., and the principles expressed in s. NR 7.09 (1), and may vary from project to project.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. (1), (2) (a) (intro.) and 2., Register, December, 1986, No. 372, eff. 1-1-87; am. (1) and (2) (intro.), r. and recr. (2) (a), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.08 Application for funding to develop a safe recreational boating facility. (1) Applications from governmental units or qualified lake associations for funding of safe recreational boating facility development projects are to be made to the department for presentation to the commission.

(2) The application shall be made on forms provided by the department and at a minimum contain the following information:

Note: Application forms are available at any department district office.

(a) A resolution officially adopted by the governmental unit or qualified lake association containing a formal request for assistance, authorizing a representative to act as agent for the governmental unit or lake association to sign forms or claims and verifying that sufficient funds are available to complete the project.

(b) A statement, supported by appropriate documents, that the project is feasible from economic, environmental and engineering viewpoint.

(c) A detailed estimate of the cost of the project indicating the local share, the requested amount of state funding, and the extent of all other sources of funds.

(3) After review of an application, the department may request the applicant to submit more detailed information. An applicant may appeal any such request by written notice to the commission at least 10 days prior to the convening of the next regular commission meeting. The written notice to the commission shall specify the basis for the applicant's objection to the department's request for more detailed information.

(4) The department shall fund at a rate determined by the commission, a portion of each project subject to the limitations of s. 30.92 (4), Stats.

(5) The department may pay, with the approval of the commission, an additional 10% of eligible costs for a construction project under s. 30.92 (4) (b) 2., Stats., if:

(a) The sponsor requests the additional 10% cost sharing, and

(b) 1. The sponsor is a municipality and it conducts a boating safety enforcement and education program approved by the department; or

2. The sponsor provides financial support by written agreement to a municipality which conducts a boating safety and education program approved by the department on the waters in the immediate area of the proposed project.

(6) The actual rates of funding in subs. (4) and (5) may vary from project to project and will be based upon consideration of the factors contained in s. 30.92 (3) (b), Stats., and the principles expressed in s. NR 7.09 (1).

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. (1), (2) (a) (intro.) and 2., Register, December, 1986, No. 372, eff. 1-1-87; am. (1) and (2) (intro.), r. and recr. (2) (a) and (5), Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.083 Application for the dredging of a channel of a waterway. (1) Applications from governmental units and qualified lake associations for funds for dredging of a channel of a waterway on inland waters shall be made to the department for presentation to the commission.

(2) The application shall be made on forms provided by the department and at a minimum contain the following information:

Note: Application forms are available at any department district office.

(a) A resolution officially adopted by the governmental unit or qualified lake association authorizing a representative to act as agent for the governmental unit or lake association for the signing of forms or claims and verifying that sufficient funds are available to complete the project.

(b) A statement supported by appropriate documents that the project is feasible from an economic, environmental and engineering viewpoint.

(3) The department may provide funds for channel dredging projects at a rate determined by the commission subject to the limitations of s. 30.92 (4), Stats. The actual rates of funding may vary from project to project and shall be based on consideration of the factors contained in s. 30.92 (4), be based on consideration of the factors contained in s. 30.92 (3) (b), Stats., and the principles expressed in s. NR 7.09 (1).

History: Cr. Register, January, 1991, No. 445, eff. 2-1-93.

NR 7.085 Application for the acquisition of capital equipment to cut and remove aquatic plants. (1) Applications from governmental units and qualified lake associations for funding the acquisition of capital equipment to cut and remove aquatic plants on inland waters shall be made to the department for presentation to the commission.

(2) The application shall be made on forms provided by the department at its district offices and at a minimum contain the following information:

Note: Application forms are available at any department district office.

(a) A resolution officially adopted by the governmental unit or qualified lake association authorizing a representative to act as agent for the governmental unit or lake association to sign forms or claims and verifying that sufficient funds are available to complete the acquisition of the equipment.

(b) A statement supported by appropriate documents that the acquisition of the capital equipment is feasible from economic and environmental viewpoints.

(3) Prior to the proposed acquisition project being presented to the commission, the governmental unit or qualified lake association shall have obtained approval from the department of a management plan to cut and remove aquatic plants from the waterbody.

(4) The department may fund acquisition of capital equipment for cutting and removal of aquatic plants at a rate determined by the commission subject to the limitations of s. 30.92 (4), Stats. The actual rates of funding may vary from project to project and will be based on consideration of the factors contained in s. 30.92 (3) (b), Stats., and the principles expressed in s. NR 7.09 (1).

Note: The amount eligible for reimbursement for the purchase of capital equipment will be up to 50% of the actual cash payment for the equipment. In the case of a trade, the amount eligible for reimbursement will be 50% of the difference between the price of a new unit and the cash value allowed for the equipment being traded.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.087 Application for the acquisition of aids to navigation and regulatory markers. (1) Applications from governmental units and qualified lake associations for funds for the purchase of aids to navigation and regulatory markers shall be made to the department for presentation to the commission.

(2) The application shall be made on forms provided by the department at its district offices and at a minimum contain the following information:

Note: Application forms are available at any department district office.

(a) A resolution officially adopted by the governmental unit or qualified lake association authorizing a representative to act as agent for the governmental unit or lake association for the signing of forms or claims and verifying that sufficient funds are available to complete the project.

(b) Number and cost of the aids to navigation or regulatory and appropriate ground tackle.

(c) If the aids to navigation or regulatory markers have been purchased prior to the application, as allowed by s. NR 7.04 (2), copies of vendor invoices for materials purchased.

(d) Copy of department waterway marker placement permit and map showing location of markers acquired.

(3) The department shall reimburse the costs of acquiring aids to navigation and regulatory marker projects at a rate determined by the commission subject to the limitations of s. 30.92 (4), Stats. The actual rates of funding may vary from project to project and will be based on consideration of the factors contained in s. 30.92 (3) (b), Stats., and the principles expressed in s. NR 7.09 (1).

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

NR 7.09 Commission to approve or deny requests for funding and establish priority lists. (1) To accomplish the purposes of this chapter, the commission will give consideration to projects located where a scarcity of safe recreational boating facilities exists, to basic facilities over elaborate facilities, to activities of the general boating public over those for a limited group, to those which meet urban

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needs and to such other factors which, in the opinion of the commission, will allow the enhancement of recreational boating in the state of Wisconsin.

(2) The commission may provide funding for feasibility studies. The priorities for such funding shall be based upon consideration of the points in sub. (1), and s. 30.92 (2) (d), Stats.

(3) Only those recreational boating facility projects found to be feasible by the commission will be placed on the priority list for funding. In addition to a finding of feasibility the commission shall consider the factors in s. 30.92 (3) (b), Stats., in establishing the priority list.

(4) The commission may deny funding for a feasibility study or a safe recreational boating facility project where:

(a) There is no expression of support for the project or study by the affected governmental unit, or

(b) Consideration of the factors in s. 30.92 (2) (d) or (3) (b), Stats., indicate it would not be appropriate to fund such a study or project.

(5) The commission shall state the basis for denial of funding in writing to the affected governmental unit within 20 days of its decision.

(6) The affected governmental unit may ask the commission to reconsider its decision by giving written notice to the commission at least 10 days in advance of its next regularly scheduled meeting. The commission may reconsider its decision and authorize funding for the study or project.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. (4) (a), (5) and (6), Register, December, 1986, No. 372, eff. 1-1-87.

NR 7.10 Agency liaison. (1) The department will assist governmental units in preparing requests for funding.

(2) The department will review all requests for funding of studies and projects for completeness and present properly completed requests to the commission for their action.

(3) The department will maintain close working relationships with public agencies with interests in safe recreational boating facility development.

(4) The department, through staff assigned to the commission, will periodically report to the commission on pertinent activities of public agencies and other bodies in the safe recreational boating facility field.

History: Cr. Register, April 1979, No. 280, eff. 5-1-79; am. (1), Register, December, 1986, No. 372, eff. 1-1-87.