

Use of SFR Funds at Aquatic Nuisance Species Inspection Stations
November 2014
ANSTF Meeting, Arlington, VA

- (1) What activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act?

Guidance concerning what activities may be eligible for funding under the Sport Fish Restoration Act can be found at 50 CFR 80.51. A wide range of activities may be allowed but generally fall under activities whose purposes relate to the restoration, conservation, management, and enhancement of sport fish and providing for the public's use and benefit of these resources.

- (2) What activities are ineligible for funding under the Dingell-Johnson Sport Fish Restoration Act?

50 CFR 80.54 describes a suite of activities that are ineligible for funding, unless they are determined to be necessary to carry out project purposes and are approved by the Regional Director. Such activities include, but are not necessarily limited to, (a) law enforcement activities, (b) public relations, (c) activities conducted for the primary purpose of producing income, and (d) activities that promote or encourage opposition to the regulated taking of fish, hunting, or the trapping of wildlife.

- (3) If an activity is not specifically mentioned as eligible in 50 CFR 80.51, may it still be allowable?

Yes, if a state fish and wildlife agency can justify that the activity will help to carry out the purpose of the Dingell-Johnson Sport Fish Restoration Act and the Regional Director concurs with the justification, then the activity may be eligible for funding (50 CFR 80.52). State fish and wildlife agencies justify an activity by submitting a project statement that is substantial in character and design.

- (4) Can Dingell-Johnson Sport Fish Restoration Act funds be used to fund waterbody inspections to prevent the introduction/establishment of aquatic nuisance species?

If the state fish and wildlife agency can demonstrate that a waterbody inspection station helps to carry out the purpose of the Dingell-Johnson Sport Fish Restoration Act, submits a project statement that is substantial in character and design, and is approved by the Regional Director, then yes, a waterbody inspection station may be eligible for funding.

Consider the following scenarios:

- (1) The inspection station is operated solely by state fish and wildlife agency personnel whose job it is to conduct the waterbody inspections. No law enforcement personnel are housed or located at the inspection station. Additionally, the role of the personnel has no law enforcement component to it. Can the personnel charge their time and operations to the Dingell-Johnson Sport Fish Restoration Act grant?

If the state fish and wildlife agency has received an approved Sport Fish Restoration grant, then yes, the agency may charge staff time and operations costs to the grant. This scenario assumes that the only function of this waterbody inspection station is to conduct inspections and those actions have been approved by the Regional office.

- (2) The inspection station is operated by state fish and wildlife agency personnel, in addition to also housing state fish and wildlife agency law enforcement personnel. The actual inspections are

conducted by agency personnel who have no law enforcement authority and any subsequent citations are issued solely by law enforcement personnel. Can both entities charge their time and operations to the Dingell-Johnson Sport Fish Restoration Act grant?

Only the agency personnel who are conducting the actual inspections may charge their time and operations to the approved Sport Fish Restoration grant. All duties performed by law enforcement staff, in their official capacity as law enforcement, are specifically ineligible to fund to the grant per 50 CFR 80.54(a).

(3) The inspection station is operated solely by the state fish and wildlife agencies law enforcement division. In addition to conducting the inspection, the law enforcement personnel also possess the ability to issue citations in their official capacity as law enforcement. Is this eligible to charge 100% of their time and operations to the Dingell-Johnson Sport Fish Restoration Act grant?

No, the state fish and wildlife agency would not be able to charge 100% of the costs of the law enforcement staff time and operations to the approved Sport Fish Restoration grant. Under 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," charging 100% of the costs would constitute a disallowed cost as defined under 2 CFR 200.31. State fish and wildlife agencies should review the factors that determine the allowability of costs under 2 CFR 200.403. Since a percentage of the time and operations of staff and the building would include a law enforcement component (an activity that is specifically disallowed under 50 CFR 80.54(a)), then 100% of the cost may not be allocated to the Sport Fish Restoration grant.

Under this scenario, a state fish and wildlife agency may choose to fund this project (a) completely with license revenue, (b) with non-license revenue received from the state, or (c) by properly developing and documenting a cost allocation plan that assigns only those costs to the Federal award in accordance with relative benefits received (2 CFR 200.405). If a state fish and wildlife agency chooses to use a cost allocation, they should be ready to provide adequate documentation of the allocation and be able to defend their determination to the Regional Office and auditors.

(5) Can Dingell-Johnson Sport Fish Restoration Act funds be used to fund roadside inspections away from any actual waterbody?

(a) If roadside inspections are being conducted by non-law enforcement personnel and the state fish and wildlife agency has received an approved Sport Fish Restoration grant, then such activities may be eligible. This type of activity may be more difficult to meet the requirements of (1) eligible under the Sport Fish Restoration Act; (2) substantial in character and design; and (3) approval from the Regional Director. State fish and wildlife agencies should understand that only those inspection activities that relate to the eligibility under the Sport Fish Restoration Act may be allowed (i.e. roadside inspections of guns or the possession of feral pigs are not eligible to fund under the Sport Fish Restoration Act). State fish and wildlife agencies are encouraged to discuss this type of activity with their Regional office well in advance of actually submitting a complete grant application package.

(b) If the roadside inspections are being conducted by law enforcement personnel in their official capacity and are also able to issue citations, then state fish and wildlife agencies should follow the directions outlined in Question 4(#3). Similar to above, this type of activity may be more difficult to meet the requirements mentioned above. State fish and wildlife agencies are encouraged to discuss this type of activity with their Regional Office well in advance of submitting a complete grant application package.