

**TITLE 14. DEPARTMENT OF PARKS AND RECREATION
DIVISION OF BOATING AND WATERWAYS**

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Parks and Recreation, Division of Boating and Waterways (department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

This proposed regulatory action would adopt sections 5200-5211 within Title 14 of the California Code of Regulations, to implement, interpret or make specific the provisions of Division 1, Chapter 5, Article 1, section 675 of the Harbor and Navigation Code, pertaining to the Quagga and Zebra Mussel Infestation Prevention Fee, and Division 3.5, Chapter 2, Article 3, sections 9853 and 9860, of the Vehicle Code, pertaining to Registration and Transfer of Vessels, as described in the Initial Statement of Reason, as well as under the Informative Digest/Policy Statement Overview below.

This proposed regulatory action would also adopt sections 5300-5307 within Title 14 of the California Code of Regulations, to implement, interpret or make specific the provisions of Division 1, Chapter 5, Article 1, section 676 of the Harbors and Navigation Code, pertaining to Deposit and use of Revenues, Division 3.5, Chapter 2, Article 3, section 9863, of the Vehicle Code, pertaining to Harbors and Watercraft Revolving Fund; dedication of fees, as described in the Initial Statement of Reason, as well as the under the Informative Digest/Policy Statement Overview below.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed regulatory action before the public comment period closes September 15, 2014.

Comments must satisfy the following requirements:

- Comment must be in writing, which includes email
- Comment must identify the proposed regulatory action being addressed
- Comments must be sent to the rulemaking agency's contact person for the proposed regulatory action

Submit comments to:

Robin Turgeon
Department of Parks and Recreation
Division of Boating and Waterways
1 Capitol Mall, Suite 410
Sacramento, CA 95814
robin.turgeon@parks.ca.gov

PUBLIC HEARING

No public hearing on this matter has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the department at least 15 days before the end of the written comment period. Such request should be addressed to the department contact person identified in this Notice and should specify the Quagga and Zebra Mussel Infestation Prevention Fee regulations for which the hearing is being requested.

AUTHORITY AND REFERENCE

This regulatory action is taken pursuant to the authority vested by Harbor and Navigation Code, Section 675. The purpose of the proposed regulatory action is to implement grant funding for education, prevention and management of the Quagga and Zebra Mussel Infestation Prevention program pursuant to the authority vested by Harbor and Navigation Code, Section 676.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires the department to adopt, by regulations, set procedures for the collection and use of the Quagga and Zebra Mussel Infestation Prevention Fee as required by California Harbors and Navigation Code Division 3, Chapter 5, Article 1.3, Sections 675 through 676 beginning with the 2014 recreational vessel registrations payable on December 31, 2013 and thereafter on a biennial basis.

The regulations proposed in this rulemaking action would specify how the fee will be collected, exemptions to the fee and how the fees would be deposited. It would specify the enforcement of the fee and would outline the strategies of the enforcement. It would outline the boundaries for exemptions of the fee and it would also establish criteria for administering the grants in accordance with the statutes.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The department has conducted an evaluation for any other regulations on this area and has concluded that these are the only regulations concerning the Quagga and Zebra Mussel Infestation Prevention Fee. Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The broad objective of the proposed regulations is to establish a boater registration Mussel Fee. The fee will provide specific benefits such as infestation prevention and education efforts through grant funding, which will be administered, by the department, to eligible agencies for quagga and zebra mussel prevention programs at reservoirs that allow boating and fishing recreation and supplementary funding for California Department of Fish and Wildlife (CDFW) prevention activities.

According to Department of Motor Vehicles Forecasting Unit up to May for fiscal year 2013/2014 the table below captures the estimated monthly revenue for the Quagga and Zebra "Mussel Fee Paid" stickers:

<u>FY</u> <u>13/14</u>	<u>QZ Fee</u>	<u>Substitute</u> <u>Sticker</u> <u>Fee</u>	<u>Total</u>
Jul	\$0	\$0	\$0
Aug	\$0	\$0	\$0
Sep	\$3,040	\$0	\$3,040
Oct	\$1,705,312	\$0	\$1,705,312
Nov	\$2,412,304	\$16	\$2,412,320
Dec	\$3,447,617	\$112	\$3,447,729
Jan	\$1,063,016	\$1,856	\$1,064,872
Feb	\$258,336	\$1,304	\$259,640
Mar	\$225,296	\$2,656	\$227,952
Apr	\$228,528	\$5,630	\$234,158
May	Only Partial Month Forecast Available		
June	Unavailable		
YTD Total	\$9,343,449	\$11,574	As of May 1, 2014 \$9,355,023

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Costs or savings to state agency: None

Costs or savings to Federal Funding to the State: None

Effect on housing costs: None

Significant, statewide adverse economic impact directly effecting businesses, including the ability of California businesses to compete with businesses in other states: None

Effect on small business: None, because the department has determined that adoption of these proposed regulations do not adversely impact small business. These proposed regulations serve to provide funding through the collection of a fee. The fee will provide grant funding which will be awarded to water body owners/managers for the implementation of a prevention plan of a dreissenid mussel infestation. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarify existing statutory mandates.

Other nondiscretionary cost or savings imposed upon local agencies: None

Cost to any local agency or school district requiring reimbursement, pursuant to Government Code section 17500 et seq.: None

Cost Impacts on representative private person or business: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Result of the Economic Impact Assessment:

The department has determined that it is unknown how likely the proposed regulatory action will impact the creation of jobs, the creation of new businesses or the expansion of businesses currently doing business with the State of California. No jobs or existing businesses will be lost. The potential savings to the State due to prevention and education efforts provided through the grant program could avert significant damage to the water delivery system that provides drinking water to millions of southern Californians, or damage to the irrigation network that supports a \$30 billion per year agricultural industry, and could produce extraordinary economic and social consequences.

REPORTING REQUIREMENTS

The proposed regulatory action makes no reporting requirements upon businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The department invites interested persons to present statements or arguments regarding alternatives to the proposed regulations during the comment period.

CONTACT PERSON

Written comments about the proposed regulatory action, requests for a copy of the Initial Statement of Reasons and/or the proposed text of the regulations, inquiries regarding the rulemaking file and questions on the substance of the proposed regulatory action may be directed to:

Robin Turgeon, Aquatic Invasive Species Unit
California State Parks,
Division of Boating and Waterways
1 Capitol Mall, Suite 410
Sacramento, CA 95814
Telephone: (916) 327-1851
FAX: (916) 327-1775
E-mail: robin.turgeon@parks.ca.gov

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above:

Edward Hard, Aquatic Invasive Species Unit, edward.hard@parks.ca.gov
(916) 327-1865

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulations are also available on the department's website at:
www.dbw.parks.ca.gov.

AVAILABILITY OF THE TEXT OF THE PROPOSED REGULATIONS

The department has prepared and has available the express terms of the proposed regulatory action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the proposed text of the regulations may be obtained from the department contact person named in this notice. The information upon which the department relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, the department may make the regulations permanent if it remains substantially the same as described in the Informative Digest. If the department does make changes to the regulations, the modified text will be made available for at least 15 days prior to adoption. Request for the modified text should be addressed to the department contact person named in this notice. The department shall accept written comments on any changes for 15 days after the modified text is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulations in underline and strikeout can be accessed through our website at: www.dbw.parks.ca.gov