

**TITLE 14. NATURAL RESOURCES
RECREATIONAL BOATING SAFETY REGULATIONS**

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Personal Flotation Device Required

Sections Affected: Amend the California Code of Regulations, Title 14, Division 4, Chapter 1 (CCR) Sections 6565.5, 6565.6, and 6565.7 and definitions in 6565.2 and 6565.4

BACKGROUND AND PROBLEM STATEMENT

Public Resources Code Section 6565.5, also known as the Personal Flotation Device Required.

The Program is administered by the Division of Boating and Waters (Division) within the California Department of Parks and Recreation (Department).

The purpose of the proposed action is to make changes to life jacket type code terminology found within Title 14, CCR § 6565.5. In 2014, United States Coast Guard (USCG) issued 79 FR 56491 to remove references to type codes in its regulations on the carriage and labeling of approved personal flotation devices (PFD). Labeling of PFDs is an important safety matter, as it is the primary means by which the manufacturer communicates to the end user how to select the right PFD and use and maintain it properly. Based on the volume of queries to the USCG in recent years, including questions from National Boating Safety Advisory Council members, the USCG believes the current labels on USCG-approved PFDs are confusing to the boating public and do not effectively communicate important safety and regulatory information to users and law enforcement personnel.

Per Federal Register 79 FR 56491 issued by USCG, removing references to type codes found on PFDs will facilitate future incorporation by reference of new industry consensus standards for PFD labeling that more effectively convey safety information, and is a step toward harmonization of USCG regulations with PFD requirements in Canada and in other countries. Specifically, this final rule will enable the Standards Technical Panel (Panel), the panel charged with the new industry consensus standards, to complete development of a standard for wearable PFDs without including unnecessary references to type codes. By paving the way for the Panel to develop a new standard, this final rule supports the efforts of the U.S.-Canada Regulatory Cooperation Council, a bilateral effort coordinated by the Office of Management and Budget (OMB) to develop a "North American Standard for lifejackets."

SPECIFIC PURPOSE, ANTICIPATED BENEFIT, AND NECESSITY

CCR Section 6565.5:

Cal. Code Regs. Tit. 14 § 6565.5

Section 6565.5 – Personal Flotation Devices Required

(a) Effective January 1, 1998, no person may use a recreational boat unless: - ~~at least one PFD of the following types is on board for each person:~~

(1) ~~Type I PFD,~~ **At least one wearable United States Coast Guard approved personal flotation device (“PFD”) of an appropriate size and type for the person for whom it is intended is on board and readily accessible for each person;**

(2) ~~Type II PFD, or~~ **Each PFD is used in accordance with any requirements on the approval label; and**

(3) ~~Type III PFD~~ **Each PFD is used in accordance with any requirements in its owner’s manual, if the approval label makes reference to such a manual.**

Specific Purpose:

The specific purpose of this amendment is to remove references to type codes found on PFDs which in turn will facilitate future incorporation by reference of new industry consensus standards for PFD labeling that more effectively convey safety information to boaters and is a step toward harmonization of USCG regulations with PFD requirements in Canada and in other countries. These regulatory changes will align CCR with federal statute and provide consistency throughout the state on use of PFD terminology.

Benefits:

As of 2014, vessel manufacturers have ceased referencing type codes on PFDs, so by aligning CCR with the new federal labeling standards, there will be consistency in both standards. Additionally, changing PFD Type code language will keep safety information at the forefront for all individuals using PFDs. Further, by aligning CCR with the new federal labeling standards, there will be consistency in both standards and much less confusion to individuals using life jackets to ensure they are using the appropriate PFD for the respective activity, thus saving lives.

Necessity:

The proposed amendment is necessary to reduce confusion with federal statute PFD terminology with inconsistent or outdated PFD language found in the CCR. Additionally, changing PFD Type code language will keep safety information at the forefront for all individuals using PFDs. As of 2014, vessel manufacturers have ceased referencing type code on PFDs, so by aligning CCR with the new federal labeling standards, there will be consistency in both standards and much less confusion to individuals using PFDs to ensure they are using the appropriate PFD for the activity they are involved in, thus saving lives.

(4) A personal flotation device required by this paragraph is readily accessible for use in an emergency if:

(A) It is being worn; or

(B) It is stowed in close proximity to the operator of the vessel and in a position to be quickly thrown to a person overboard by either the operator or a passenger.

(C) Out of its original packaging; and

(D) Not under lock and key.

Specific Purpose:

The specific purpose of this amendment is to move the requirements found in Title 14 CCR 6567.7 (a) Stowage, which we are proposing to repeal, to this section (6565.5) to ensure boaters understand what “readily accessible” means if they are over 13 years of age and choose not to wear a PFD. It is our intent to more clearly define what “readily accessible” means.

Benefits:

Incorporating this language into Section 6565.5 and more clearly defining what “readily accessible” means will make it easier for the public to understand the stowage requirements for PFDs and will help to save lives when seconds matter in a drowning situation. For example, if a vessel starts taking on water and everyone is advised to put a life jacket/PFD on, it is critical that PFD be readily accessible for use and not stowed deep in the cargo bays, behind lock and key, and in its original packaging that can take time to open.

Necessity:

The proposed amendment is necessary to ensure the public understands what it means for PFDs to be kept readily available in case of emergencies and when seconds matter in a drowning situation.

~~Cal. Code Regs. Tit. 14 § 6565.5~~

~~Section 6565.5 — Personal Flotation Devices Required~~

~~(b) Prior to January 1, 1998, a Type IV throwable may be carried in lieu of any Type I, II, or III PFD, for each person on board a recreational boat vessel less than 16 feet in length or any canoe or kayak of any length.~~

Specific Purpose:

The specific purpose of this amendment is to remove this section of regs since the regulation is outdated and no longer applicable.

Benefits:

Removing this regulation section will focus reader on applicable laws and may cause less confusion to the public who may try to understand how it is applicable.

Necessity:

The proposed amendment is necessary as it is no longer applicable and would not have any known negative impacts to the public with its removal.

(eb) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless one United States Coast Guard approved throwable PFD, such as a ring life buoy or buoyant cushion, is onboard, so placed as to be readily accessible for use in an emergency, in addition to the total number of wearable PFDs required in paragraph (a) of this section. A throwable PFD required by this paragraph is readily accessible for use in an emergency if:

- (1) It is stowed in close proximity to the operator of the vessel and in a position to be quickly thrown to a person overboard by either the operator or a passenger; and
- (2) Out of its original packaging; and
- (3) Not under lock and key.

Specific Purpose:

The specific purpose of this amendment is to move the requirements found in Title 14 CCR 6567.7 (b) Stowage, which we are proposing to repeal, to this Section (6565.5), to ensure boaters better understand what “readily accessible” means. The specific purpose of this amendment is to ensure boaters understand what a “Throwable PFD” is through providing examples, and to better outline what it means to have a throwable PFD kept “readily accessible”.

Benefits:

The benefit of this amendment is that boaters will see examples of the types of throwable PFDs that are available to the public. Additionally, the amendment ensures a throwable PFD will be readily accessible to be used in an emergency, and not buried or stowed in a compartment, behind lock and key, or in its original packaging. Having throwable PFDs readily accessible to be thrown in emergencies will save lives when seconds matter in a drowning situation.

Necessity:

The proposed amendment is necessary to ensure throwable PFDs are kept readily available in case of emergencies. Incorporating the language found in Section 6567.7 (b) into Section 6565.5 and more clearly defining what “readily accessible” means, will make it easier for the public to understand the stowage requirements for PFDs and will help to save lives when seconds matter in an emergency drowning situation.

CCR § 6565.6. Exceptions

A ~~Type V~~ **Special Use**, PFD may be carried in lieu of any PFD required under Section 6565.5 provided:

- (a) The approval label on the ~~Type V~~ **Special Use** PFD indicates that the device is approved:
- (1) For the **intended boating** activity in which the boat is being used; or
 - (2) As a substitute for a PFD of the Type required on the boat in use;
- (b) The PFD is used in accordance with any requirements on the approval label; and
- (c) The PFD is used in accordance with requirements in its owner's manual, if the approval label makes reference to such a manual.

Specific Purpose:

The specific purpose of this amendment is to remove references to type codes found on Special Use PFDs which in turn will facilitate future incorporation by reference of new industry consensus standards for PFD labeling that more effectively convey safety information to boaters and is a step toward harmonization of USCG regulations with PFD requirements in Canada and in other countries. These regulatory changes will align CCR with federal statute and provide consistency throughout the state on use of PFD terminology.

Benefits:

The Division of Boating and Waterways will be able to incorporate by reference any and all changes in standards for PFDs. This will keep safety information at the forefront for all individuals using PFDs. As of 2014, vessel manufacturers have ceased referencing type codes on PFDs. By aligning CCR with the new federal labeling standards, there will be consistency in both standards, which includes no longer referencing the type codes of PFDs as vessel manufacturers have done since 2014.

Necessity:

The proposed amendment is necessary to reduce confusion with federal statute PFD terminology with inconsistent or outdated PFD language found in the CCR. Additionally, changing PFD Type code language will keep safety information at the forefront for all individuals using PFDs. As of 2014, vessel manufacturers have ceased referencing type code on PFDs, so by aligning CCR with the new federal labeling standards, there will be consistency in both standards and much less confusion to individuals who use PFDs to ensure they are using the appropriate PFD for the activity they are involved in, thus saving lives.

~~14 CCR § 6565.7~~

~~§ 6565.7. Stowage.~~

~~(a) No person may use a recreational boat unless each Type I, II or III PFD required by Section 6565.5 or equivalent type allowed by 6565.6 is readily accessible.~~

~~(b) No person may use a recreational boat unless each Type IV PFD required by Section 6565.5 or equivalent type allowed by 6565.6 is immediately available.~~

Specific Purpose:

The purpose of repealing CCR Section 6565.7 (a) and (b) is to incorporate the language into CCR Section 6565.5 (a) and (b) respectively.

Benefits:

The benefits of combining the language into 6565.5 (a) and (b) is to ensure boaters can easily find the information in one place. It also clarifies the requirements for boaters and law enforcement to more easily understand the requirements.

Necessity:

The necessity of repealing CCR Section 6565.7 (a) and (b) is to incorporate the language into CCR Section 6565.5 (a) and (b) respectively to ensure boaters and law enforcement can better understand the stowage requirements for PFDs.

CCR § 6565.2. Definitions “Personal Flotation Device”

(c) “Personal Flotation Device” or PFD means a device that is approved by the Commandant under 46 CFR part 160.

Specific Purpose:

“Personal Flotation Device” was not defined in CCR. Added the definition as defined in 33CFR Subpart B—Personal Flotation Devices § 175.13. Definitions, to ensure regulatory language found in CCR is consistent throughout the state on use of PFD terminology.

Benefits:

Having PFD clearly defined will help the public understand what may be considered a PFD and also keep safety information at the forefront for all using PFDs.

Necessity:

Necessary to ensure members of the public know and understand what a personal flotation device is when cited in regulations.

CCR § 6565.2. Definitions “Throwable PFD”

(f) “Throwable PFD” means a PFD that is intended to be quickly thrown to a person overboard by either the operator or a passenger. A PFD marked as Type IV or Type V with Type IV performance is considered a throwable PFD. Unless specifically marked otherwise, a wearable PFD is not a throwable PFD.

Specific Purpose:

“Throwable PFD” was not defined in CCR. Added the definition as defined in 33CFR Subpart B—Personal Flotation Devices § 175.13 Applicability, to ensure regulatory language found in CCR is consistent throughout the state on use of PFD terminology.

Benefits:

Having “Throwable PFD” clearly defined will help the public understand what may be considered a throwable PFD, distinguishing it from the general PFD, and also keep safety information at the forefront for all using PFDs.

Necessity:

Necessary to define “throwable PFD” to distinguish a throwable PFD from other floatation devices.

CCR § 6565.2. Definitions “Wearable PFD”

(i) “Wearable” PFD means a PFD that is intended to be worn or otherwise attached to the body. A PFD marked as Type I, Type II, Type III, or Type V with Type (I, II or III) performance is considered a wearable PFD.

Specific Purpose:

“Wearable PFD” was not defined in CCR. Added the definition as defined in 33CFR Subpart B—Personal Flotation Devices § 175.13 Definitions, to ensure regulatory language found in CCR is consistent throughout the state on use of PFD terminology.

Benefits:

Having PFD clearly defined in CCR will help the public understand what may be considered a wearable PFD and also keep safety information at the forefront for all using PFDs.

Necessity:

Necessary to define “wearable PFD” to differentiate the wearable PFDs from other types of floatation devices.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not impose any mandates on agencies or organizations. Participation in the Program is voluntary and does not mandate the use of specific technologies or equipment.

UNDERLYING DATA / DOCUMENTS RELIED UPON

There were no underlying data or documents relied upon.

ECONOMIC IMPACT ASSESSMENT / ANALYSIS

The Division concludes that the proposed regulation actions are: (1) unlikely to eliminate any jobs, (2) unlikely to create an unknown number of jobs, (3) unlikely to create new businesses, and (4) unlikely to eliminate any existing businesses.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose for which the action is proposed. No reasonable alternative would be as effective or less burdensome to affected private persons and would be equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

BUSINESS IMPACT

There would not be an adverse economic impact on businesses. The Department has found that the manufacturing industry is already complying with Federal Register 79 FR 56491 issued by USCG since 2014.

DUPLICATION / CONFLICT WITH FEDEREAAL REGULATIONS

The Department has determined that the proposed rulemaking action does not unnecessarily duplicate or conflict with federal regulations contained in the Code of Federal Regulations. Participation in the Program is voluntary and is not addressed in the Federal Code of Regulations.