

INITIAL STATEMENT OF REASONS

Section 8200. Short Title

Specific Purpose of the Regulation.

This proposed regulation names the regulations as the California Boater Card Regulations and states that the California Boater Card program is under the Department of Parks and Recreation, Division of Boating and Waterways (“Division”).

Necessity.

Harbors and Navigation Code sections 678 through 678.15 refer to a “vessel operator card” program. The Division uses the vernacular term of “California Boater Card”, rather than “vessel operator card”, in providing information on the program via literature and website. This regulation is necessary to clarify that the regulations and the program are referred to as the “California Boater Card”.

Section 8200.1. Definitions

Specific Purpose of the Regulation.

This proposed regulation defines terms used in the regulations that are specific to the California Boater Card program.

Necessity.

This regulation is necessary to clarify terms that have specific meaning in the context of the regulations that may differ from the generally understood meaning.

Section 8200.2. Fees

Specific Purpose of the Regulation.

This proposed regulation sets the initial and replacement fee for a California Boater Card.

Necessity.

This regulation is necessary as Harbors and Navigation Code section 678.3 states that the Division shall determine the fees required for the California Boater Card program in amounts sufficient to cover the reasonable costs of the development, establishment, and operation of the program. The attached “Draft California Vessel Operator Card Formula” (Exhibit 4) shows the breakdown of costs to implement the California Boater Card program. This formula was used to determine the California Boater Card fees.

Section 8200.3. Process for Individuals Who Possess a Boating Safety Course Certificate of Completion Obtained During January 1, 2015 through December 31, 2017

Specific Purpose of the Regulation.

This proposed regulation will inform those persons who have passed a boating safety course, approved by the National Association of State Boating Law Administrators and the Division, between January 1, 2015 and December 31, 2017, that they may submit their proof of such certificate to the Division and receive a California Boater Card.

Necessity.

This regulation is necessary to inform those persons who have already passed an approved boating safety course between January 1, 2015 through December 31, 2017 how to obtain a California Boater Card without being required to take another course.

Section 8200.4. Temporary California Boater Card Certificates

Specific Purpose of the Regulation.

This proposed regulation enables persons to receive a temporary California Boater Card certificate to use after passing the boating safety examination, while waiting for receipt of their permanent California Boater Card.

Necessity.

This regulation is necessary because there will be a period of time between a person passing a boating safety course and the preparation and issuance of a permanent California Boater Card. Providing temporary California Boater Card certificates will enable operators to use the waterways legally while waiting for their permanent California Boater Card.

Section 8200.5. Exemptions

Sub-Section (a).

Specific Purpose of the Regulation.

This proposed regulation sub-section informs individuals who fall under an exemption of the requirement to possess a California Boater Card, as outlined in Harbors and Navigation Code section 678.11(c), that they shall provide proof of that exemption when requested by any law enforcement officer.

Necessity.

This regulation sub-section is necessary to inform those individuals who are exempt from possessing a California Boater Card, under Harbors and Navigation Code section 678.11(c), that they shall provide proof of their exemption when requested by a law enforcement officer.

Sub-Section (b).**Specific Purpose of the Regulation.**

Pursuant to Harbors and Navigation Code section 678.11(c)(2), a person is exempt from possessing a California Boater Card while operating a vessel if they are under the direct supervision of a person 18 years or older who is in possession of a California Boater Card or is exempt from possessing a California Boater Card. This proposed regulation sub-section defines “direct supervision”, as used in Harbors and Navigation Code section 678.11(c)(2), as an operator who is supervised by a person that is on the same vessel, ready at all times to take the helm, and legally able to operate the vessel.

Necessity.

This regulation sub-section is necessary as “direct supervision” is not defined in Harbors and Navigation Code section 678.11(c)(2). It is necessary to define “direct supervision” to inform the public that direct supervision requires the person supervising the operator to be on the same vessel, ready to take the helm, and legally able to operate the vessel. This will prevent persons from understanding or asserting that “direct supervision” could be achieved if the person supervising is not on the same vessel, ie. swimming or water-skiing behind the boat, or if the person supervising is below deck taking a nap or otherwise unavailable, or is intoxicated and not legally able to operate the vessel.

Sub-Section (c).**Specific Purpose of the Regulation.**

Pursuant to Harbors and Navigation Code section 678.11(c)(4), a person is exempt from possessing a California Boater Card while operating a rental vessel. This proposed regulation sub-section defines “rental vessel” as used in Harbors and Navigation Code section 678.11(c)(4), as a vessel owned or managed by a business licensed to rent vessels. The proposed sub-section also states that an operator shall have in his or her possess a copy of the signed rental agreement that contains the name of the licensed rental business, the signature of the person renting the vessel, the vessel registration number, and the date and time period of the rental.

Necessity.

This regulation sub-section is necessary as “rental vessel” is not defined in Harbors and Navigation Code section 678.11(c)(4). It is necessary to define “rental vessel” to inform the public that a rental vessel requires a person to have rented a vessel from a business licensed to rent vessels, that the person shall have with him or her a copy of the rental agreement and what that rental agreement shall contain. This will prevent persons from understanding or asserting that a “rental vessel” includes borrowing a vessel from a friend or other person.

8200.6. Violation

Specific Purpose of the Regulation.

This proposed regulation allows a law enforcement officer to require a vessel operator to terminate the voyage if a vessel operator cannot provide evidence of a California Boater Card or an exemption to possessing a California Boater Card.

Necessity.

Harbors and Navigation Code section 678.11 states that a person shall not operate a vessel on waters subject to the jurisdiction of the state without a California Boater Card, unless an exemption applies. This regulation will notify the public that a law enforcement officer may require termination of the voyage if a vessel operator does not provide evidence of a California Boater Card or an exemption to possessing a California Boater Card.

Economic Impact Assessment. (Government Code Section 11343.3(b))

The proposed regulations are necessary to clarify the regulations and the program for the “California Boater Card”.

Creation or Elimination of Jobs within the State of California

The regulations are designed to assist in the management of the “California Boater Card” program for the Department of Parks and Recreation, Division of Boating and Waterways. These activities are currently being performed by the existing state staff and the regulations enhance their job abilities. Therefore, no jobs in California will be created or eliminated.

Creation of New or Elimination of Existing Businesses Within the State of California

The regulations are designed to assist the Department of Parks and Recreation, Division of Boating and Waterways in the management of the “California Boater Card” program. The regulations clarify definitions, fees, process to take Boating Safety Course, temporary “California Boater Card” certificates, exemptions, and violations.

These activities are being managed and performed by existing state staff and the regulations enhance their job abilities. Therefore, no new businesses in California will be created or existing businesses eliminated.

Expansion of Businesses or Elimination of Existing Businesses Within the State of California

The regulations are designed to assist the Department of Parks and Recreation, Division of Boating and Waterways in the management of the “California Boater Card” program. The program is managed and performed by existing state staff and the regulations enhance their job abilities. Therefore, no existing businesses in California will be expanded or eliminated.

Evidence Supporting No Significant Adverse Economic Impact on Business

The regulations are designed to assist the Department of Parks and Recreation, Division of Boating and Waterways in the management of the “California Boater Card” program. The regulations are new and have no current impact on California Businesses to compete with businesses in other states since the entire program is run by state staff and has no direct impact on business competition. Since these are new regulations, data will be collected to ensure business competition is not impacted by this program.

Benefits of the Regulations

The regulations are designed to assist the Department of Parks and Recreation, Division of Boating and Waterways in the management of the “California Boater Card” program. The regulations allow better management of the “California Boater Card” program. The program will improve boater safety and enforcement. These regulations may indirectly benefit the health and welfare of California residents by potentially reducing the costs of boating incidents in the State of California. The regulations will benefit safety in the state’s boating and waterways environment.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

The Division relied on the following documents in preparing the Initial Statement of Reasons:

- Exhibit 1—Harbors and Navigation Code sections 678 – 678.15
- Exhibit 2—Harbors and Navigation Code section 668, 668.1, and 668.3
- Exhibit 3 – Title 14, California Code of Regulations, section 8000.
- Exhibit 4—Draft California Boater Card Formula prepared by Division of Boating and Waterways staff (2016)

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S
REASONS FOR REJECTING THOSE ALTERNATIVES**

Not applicable, statute mandates the adoption of regulations.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

None.