

NOTICE OF PROPOSED RULEMAKING

California State Parks, Division of Boating and Waterways (“Division”) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

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 California Boater Card regulations for which the hearing is being requested.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments, relevant to the proposed regulatory action before the public comment period closes. The deadline to submit comments is January 28, 2019.

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:

Charley Hesse, Regulations Analyst

California State Parks
Division of Boating and Waterways
One Capitol Mall, Suite 500
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Harbors and Navigation Code, Division 3, Chapter, 5, Article 1.4, Section 678.1 through 678.15 (Exhibit 1) and Harbors and Navigation Code, Division 3, Chapter 5, Article 1, Sections 668.1 through 668.3 (Exhibit 2) authorize the Division to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific the above-mentioned sections of the Harbors and Navigation Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and specifies the requirements and provisions for development and implementation of the California Boater Card (CBC) Program. This includes provisions for mandatory safety education and the issuance of CBC's, fees required to cover reasonable costs of the development, establishment, and operation of the program. As well as sources for receiving mandatory training, content of annual report to the Legislature and schedule for ages of persons requiring a CBC.

Current laws have no regulations because these are new regulations being developed.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION:

Statistics show that states with some form of mandatory boating safety education have fewer accidents and fatalities. In 2016, there were 588 boating accidents in California, which resulted in 266 injuries, 50 fatalities and \$3,911,886 in property damage. Only two of the 50 boat operators involved in a fatal accident had taken a formal boating safety course (2016 California Recreational Boating Accident Statistics, page 15, [Exhibit 4]). Boaters learning safe boating practices can prevent boating accidents.

Fees collected for CBC's will be sufficient to cover the amount necessary to implement the program, but not exceed those costs.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS:

The Division has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Division has concluded that these are the only regulations that concern vessel operator cards.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Division has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500-17630: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or businesses:

The CBC program will charge fees for vessel operators to obtain initial and duplicate vessel operator cards. There will be fines for persons violating Harbors and Navigation Code section 678.15. Both of these items may impact private persons.

The CBC program may cause an increase in persons taking and passing boating safety examinations, and this may positively impact businesses providing these examinations.

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

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Division concludes that it is (1) unlikely the proposed action will eliminate any jobs, (2) unlikely the proposed action may create an unknown number of jobs, (3) unlikely the proposal will create new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposal will impact the expansion of existing businesses.

Benefits of the Proposed Action: Statistics show that states with some form of boating safety education have fewer boating accidents and fatalities. The CBC requirement will educate the boating public to establish safer waterways.

Fees collected for CBC's will be deposited into the Vessel Operator Certification Account, established within the Harbors and Watercraft Revolving Fund. Fees will be in an amount sufficient to cover reasonable costs of the program, but not exceed those costs.

SMALL BUSINESS DETERMINATION:

The Division has determined that it is unlikely the proposed regulations will adversely affect small businesses. The proposed regulations will implement Harbors and Navigation Code, Division 3, Chapter 5, Article 1, Sections 668.1 and 668.3, and Harbors and Navigation Code, Division 3, Chapter, 5, Article 1.4, Section 678, which clarify and specify implementation of the CBC. This program will impact the public and local law enforcement only.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5, subdivision (a)(13), the Division must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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 Division is not aware of any reasonable alternatives to the proposed regulations. However, the Division invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Charley Hesse, Regulations Analyst
California State Parks
Division of Boating and Waterways
One Capitol Mall, Suite 500
Sacramento, CA 95814
Telephone: (916) 327-1741

Please direct requests for copies of the Proposed Text (the “express terms”) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to Pamela Dias at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Division will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the Proposed Text of the Regulations, the Economic and Fiscal Impact Statement (STD 399) and the Initial Statement of Reasons. Copies may be obtained by contacting Pamela Dias at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Division may adopt the proposed regulations substantially as described in this notice. If the Division makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Division adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Pamela Dias at the address indicated above. The Division will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Pamela Dias at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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