

## INITIAL STATEMENT OF REASONS

### **Problem Statement.**

The current method of collecting fees for the Quagga and Zebra Mussel Infestation Prevention Program ("QZ Program") conflicts with federal law, specifically section 12307 of title 46 of the United States Code. Not correcting this conflict jeopardizes future federal grants in excess of \$5-7 million annually.

Assembly Bill 2443 (2443 2011-2012 Reg. Sess.) established the QZ Program. The Legislature found the QZ Program necessary to address the growing infestation of invasive species, Quagga and Zebra Mussels, in California's waterways. In 2012, 25 bodies of freshwater in California were identified as having Quagga or Zebra Mussels. The QZ Program provides grants for local water body managers to establish prevention methods to stop the further spread of these invasive species. The grants set forth in Assembly Bill 2443 are funded by a QZ Program fee paid by vessel owners, due at the time vessel registration is due (biennially).

Assembly Bill 2443 gave the Division of Boating and Waterways ("Department") authority to adopt emergency regulations in order to implement the QZ Program. In 2013 QZ Program Fee Regulations were codified (Cal. Code Regs., tit. 14 §5200 et seq.). These sections established, among other things, fee amounts, due dates, late fees, exemptions, and deposit of revenues.

Since the early 1960's, the Department of Motor Vehicles ("DMV") has been responsible for the collection of vessel registration fees, the issuance of vessel registration numbers, and the issuance of vehicle titles. The DMV and Department worked in coordination developing QZ Program regulations that ensured consistency with DMV database systems, policies, and processes. In 2014, the DMV began collecting fees associated with the QZ Program and issuing the required stickers to vessel owners as proof of payment of the fee and for display on their vessels. The fee collected biennially is \$16 (\$8 per year).

The Division receives annual federal funding from the Recreational Boating Safety ("RBS") Grant program, administered by the United States Coast Guard. These funds total \$5-7 million annually, funding several vital boating safety and enforcement programs in the Division of Boating and Waterways. One requirement to remain eligible for RBS funding is that the Division must maintain a recreational vessel numbering system approved by the US Coast Guard. During an audit of DBW's recreational boating safety program in April 2015, the US Coast Guard discovered deficiencies in the Division's vessel numbering system- one being the requirement for a vessel owner to pay the QZ Program fee as a condition of receiving their registration. Per section 12307 of title 46 of the United States Code, states may impose conditions for vessel numbering only as it relates to proof of payment of state or local taxes, titling, or insurance.

In an April 5, 2017 letter to Department of Parks and Recreation's Director Lisa Mangat, the US Coast Guard informed her of its intent to withhold \$2,339,517 in federal grant funds due to the Division's lack of compliance with federal law. The grant funds were withheld from the Division's Federal Fiscal Year (FFY) 2017 RBS grant. However, the Division can still receive these funds if a correction to the QZ Program fee collection process is completed by January 2020. Ultimately, if the process is not changed, future funding will be withheld.

### **Benefits.**

There are three benefits of amending current regulations.

First, the payment of the QZ fee will be decoupled from the payment of vessel registration. This brings California into accordance with federal law by removing the condition of paying a QZ fee in order to receive vessel registration. Further, no future withholdings of federal grants will occur as a result of this issue.

Second, the Division will continue to receive the necessary funding to support critical boating safety and enforcement programs. These programs include mandated school-age boating education materials, boating safety publications, a boating safety media campaign, life jacket programs, mandated aquatic center grants, and equipment and training for boating law enforcement. All of these programs enhance boating safety on California's waterways, as well as providing the necessary law enforcement to keep boaters safe.

The third benefit of amending current regulations is cost-savings for the Division. If withholdings to the RBS grant continue as a result of non-compliance, the Division would be forced to reduce programs funded by federal grants, or rely on HWRF dollars to make up the difference. Using HWRF dollars would reduce funds available for other Division programs causing a domino effect of unfunded activities. The HWRF is a special fund supported by vessel registration fees, gas taxes attributed to boats, and interest collected on construction loans. In recent years, the HWRF has become insolvent due to transfers out of the fund, while also experiencing marked decreases in vessel registration income and repaid loan interest. If the US Coast Guard ceases to grant RBS funds to the Department, it would not be feasible for the HWRF to fund an additional \$2-5 million dollars annually due to the loss of federal funding.

### **Specific Purpose of the Regulations.**

**Section 5200.5:** To remove language that couples the QZ Program Fee and the vessel registration.

**Section 5201:** To remove language that requires the QZ Program fee to be paid upon application for vessel registration, effectively decoupling the QZ Program fee collection from the vessel registration process.

**Section 5202:** To clearly identify when a QZ Program fee can be paid and remove language that requires the fee to be paid at the same time as a vessel registration application or renewal, effectively decoupling the QZ Program fee collection from the vessel registration process.

**Section 5203:** To remove language that ties past-due a QZ Program fee to vessel registration.

**Section 5207:** To remove language that ties the QZ marine water exemption to vessel registration, effectively decoupling the QZ Program fee collection from the vessel registration process.

**Section 5209:** To remove language that ties past-due a QZ Program fee to vessel registration.

**Section 5212:** To clearly state that non-payment of the QZ Program fee shall have no bearing on the issuance of vessel registration by the DMV, effectively decoupling the QZ fee collection from the vessel registration process.

#### **Necessity.**

**Sections 5200.5, 5201, 5202, 5203, 5207, 5209, and 5212:** The amendments to these regulatory sections are necessary to clearly separate the QZ Program fee collection process from the issuance of vessel registrations. These changes remove language that inadvertently created a fee collection process that conflicts with federal law. Additionally, these changes allow the Department to address and remedy punitive audit findings to once again become eligible for federal grant funding through the RBS Grant Program.

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

None.

#### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Division anticipates no significant economic impact due to the proposed regulatory changes. While the proposed amendments make changes to the way in which the fee is collected, the amount of the fee itself remains the same.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

Recipients of QZ grants funded by QZ fees, are public and private reservoir managers, among others. These QZ grants fund prevention programs throughout the state, including inspection stations, staff, and boat wash facilities. These businesses and the activities funded will not be impacted because the fees being collected will remain the same.

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

No other reasonable alternatives were considered. Only the proposed amendments in regulation will allow the DMV to change its current QZ Program fee collection process.

**DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS**

None.