

Title 14. Natural Resources
Division 4. Department of Parks and Recreation
Chapter 1. Department of Parks and Recreation
Article 1.5 Quagga and Zebra Mussel Infestation Prevention Fee Regulations

Article 1.5, Commencing with Section 5200, is adopted and added to Chapter 1 of Division 4 of Title 14 of the California Code of Regulations to read:

PROPOSED TEXT

Article 1.5. Quagga and Zebra Mussel Infestation Prevention Fee Regulations

5200. Short Title.

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Fee Regulations under which the Department of Motor Vehicles may collect and the Department of Parks and Recreation, Division of Boating and Waterways may administer the Quagga and Zebra Mussel Infestation and Prevention Fee, hereafter referred to as “mussel fee,” in accordance with the provisions of Section 675 of the Harbors and Navigation Code. References to “department” shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5200.5 Definitions.

The following definitions shall be used in this article:

- (a) “Biennial Period” occurs every two years.
- (b) “Conveyance” is the action of transporting someone or something from one place to another.
- (c) “Dreissenid” is the genus of a fresh water mussel.
- (d) “Mussel Fee Exemption” means no fee is due for the Quagga and Zebra Mussel Infestation Prevention Fee.

- (e) "Mussel Fee" is the Quagga and Zebra Mussel Infestation Prevention Fee which shall be paid along with vessel registration, upon purchase of a new vessel or newly acquired used vessel and bi-annually thereafter in odd years when the vessel registration renewal is due.
- (f) "Prevention Plan" is an organized approach to prevent the spread of dreissenid mussels into a defined water body and shall include public education, monitoring and inspecting for infestation.
- (g) "Quagga Mussel" is a non-native dreissenid mussel.
- (h) "Regional-Scale Prevention Plan" This plan shall include the impact such as an economic, ecological, recreational and/or other regional impact from a dreissenid mussel infestation in a surrounding area.
- (i) "Reservoir" means a body of water which contains or will contain the water impounded by a dam.
- (j) "Stickers" are an indication of a paid mussel fee and are issued by the Department of Motor Vehicles to be displayed on a registered vessel.
- (k) "Undocumented Vessel" is a vessel required to be registered through the California State Department of Motor Vehicles and not through the Federal vessel documenting system.
- (l) "Zebra Mussel" is a non-native dreissenid mussel.

NOTE: Authority cited: Section 675, 676, Harbors and Navigation Code. Sections 9853.4, 9863, Vehicle Code. Section 6004.5, Water Code. Reference: Sections 60.8, Harbors and Navigation Code.

5201. Mussel Fee Amount.

Upon application for a new vessel number or registering a newly acquired vessel with an existing vessel number, the mussel fee amount shall be \$8 when payable during an even-numbered year and \$16 when payable during an odd-numbered year. The mussel fee amount shall be \$16 thereafter on a biennial basis and shall be payable upon vessel registration renewal on December 31 of every odd-numbered year.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5202. Mussel Fee Due Dates.

The mussel fee shall become payable under any one of the following conditions:

- (a) Upon application for a new vessel number; or
- (b) Upon renewal of any California vessel registration, or
- (c) At any such time that a marine water exemption, as defined in this article, is no longer applicable and the vessel remains registered in California, or
- (d) Upon registering a newly acquired vessel with an existing vessel number.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860 Vehicle Code. Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5203. Late Payment of Mussel Fee.

When vessel registration fees are past due, up to two prior years of mussel fees shall also be payable if they were due with registration fees.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860 Vehicle Code. Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5204. Adjustment of Mussel Fee.

There shall be no adjustment or pro-ration of the mussel fee.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860 Vehicle Code. Reference: Sections 61.8, Harbors and Navigation Code.

5205. Refund of Mussel Fee.

A refund of the paid mussel fee shall be subject to established Department of Motor Vehicles business rules and processing procedures after an application for refund is made to that department.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860, Vehicle Code. Reference: Sections 61.8, 63.9a, Harbors and Navigation Code.

5206. Evidence of Payment of Mussel Fee.

- (a) Upon payment of the mussel fee, the Department of Motor Vehicles shall provide the vessel owner with two stickers indicating “Mussel Fee Paid” and the year through which the stickers are valid.
- (b) The color of the “Mussel Fee Paid” stickers shall be the same as the color of the vessel registration stickers for the same biennial period.
- (c) The stickers shall be placed on the sides of the vessel, next to, and in line with the CF number and vessel registration stickers for purposes of law enforcement identification.
- (d) Proper display of the “Mussel Fee Paid” sticker shall be evidence of payment and subject to verification and enforcement by a peace officer.
 - (1) Marine law enforcement shall utilize a wide variety of enforcement strategies that include education, warning, and citations for violation of this regulation. A person who is in violation of this section shall be subject to a penalty that shall result in a fine which shall be imposed by a court of law.
- e) The “Mussel Fee Paid” sticker is required for all vessels registered in California unless exemption applies.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9850, 9853, 9853.4, 9860, Vehicle

5207. Marine Water Exemption.

- (a) For purposes of this section, marine water (salt water) is defined as California coastal and bay waters, which includes Suisun Bay up to and west of Chipps Island. Marine waters shall not include inland waterways, rivers, lakes, reservoirs, wetlands or the Sacramento-San Joaquin Delta.
- (b) Vessels used exclusively in marine waters shall be exempt from payment of the mussel fee.

(c) The vessel owner shall indicate that his or her vessel is entitled to the marine water exemption by one of the following:

- (1) Placing a mark in the designated portion of the Application for Registration Number Certificate of Ownership and Certificate of Number for Undocumented Vessel (DMV Form BOAT 101); or
- (2) Placing a mark in the designated portion of the Renewal Notice for Vessel Registration (DMV Form ISD 83VR); or
- (3) Placing a mark in the appropriate field in the Vessel Registration Internet Renewal webpage; or
- (4) Notifying the DMV through its Interactive Voice Response system.

(d) The marine water mussel fee exemption applies only during the current vessel registration cycle. The vessel owner shall re-apply for the marine water exemption on each Renewal Notice for Vessel Registration received.

(e) The DMV shall include in a quarterly report to the department the number of vessels claiming the marine water exemption and the number of vessels paying the additional mussel fee.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860, 9863 Vehicle Code.

Reference: Sections 60.2, 61.8, 63.9, Harbors and Navigation Code.

5208. Substitute “Mussel Fee Paid” Sticker.

In the event that the “Mussel Fee Paid” sticker is either lost or stolen, a \$16 fee for a substitute “Mussel Fee Paid” sticker shall be imposed and generated by the Department of Motor Vehicles when the owner of a currently registered vessel requests a substitute sticker.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860, 9867 Vehicle Code.

Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5209. Payment of Mussel Fee with Marine Water Exemption Status Change.

When the marine water exemption no longer applies, a \$16 fee for a Mussel Fee Paid sticker shall be imposed and generated by the Department of Motor Vehicles.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9860 Vehicle Code. Reference: Sections 61.8, 63.9, Harbors and Navigation Code.

5210. Deposit of Revenues.

All revenues from mussel fees collected by the Department of Motor Vehicles pursuant to this article shall be deposited into the Harbors and Watercraft Revolving Fund.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853, 9863 Vehicle Code. Reference: Sections 60.2, 61.8, 63.9, 85, Harbors and Navigation Code.

5211. Fee Exempt Vessels.

Vessels exempt from payment of the mussel fee imposed under this article shall be limited to the following:

- (a) Vessels used exclusively in marine waters as defined by Section 5207 (a) of this article.
- (b) Vessels exempt from payment of a registration fee as defined in Chapter 1 of Division 1 Article 3.2 Section 190.16 of the Vehicle Code, irrespective of whether the vessel is operated in fresh or marine waters.

NOTE: Authority cited: Section 675, Harbors and Navigation Code. Sections 9853 Vehicle Code. Reference: Sections 60.2, 60.8, 63.9, Harbors and Navigation Code.

Article 1.6, Commencing with Section 5300, is adopted and added to Chapter 1 of Division 4 of Title 14 of the California Code of Regulations to read:

Article 1.6. Quagga and Zebra Mussel Infestation Prevention Grant Regulations

5300. Short Title.

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Grant Regulations under which the Department of Parks and

Recreation, Division of Boating and Waterways may make grants to eligible applicants in accordance with the provisions of Section 676 of the Harbors and Navigation Code. References to department shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Reference: Sections 60.8, 63.9, Harbors and Navigation Code.

5301. Purpose.

The purpose of the Quagga and Zebra Mussel Infestation Prevention Grant Program is to provide for reasonable regulatory costs incident to the implementation of a dreissenid mussel infestation prevention plan to entities subject to Section 2302 of the Fish and Game Code for the purposes of:

- (a) Assessing the vulnerability of the reservoir to the introduction of nonnative dreissenid mussel species.
- (b) Developing and implementing a program designed to prevent the introduction of nonnative dreissenid mussel species that includes, at a minimum, all of the following:
 - (1) Public education.
 - (2) Monitoring water bodies and/or vessels for quagga or zebra mussel infestation.
 - (3) Management of those recreational, boating, or fishing activities that are permitted.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, 85.2d, Harbors and Navigation Code.

5302. Eligibility. Applicants for a Quagga and Zebra Mussel Infestation Prevention Grant are eligible if they are subject to Section 2302 of the Fish and Game Code, and provided that the following conditions are also satisfied:

- (a) The applicant attaches to the application an official copy of a Resolution or Order from the governing board or executive officer of the local entity authorizing the application for a grant.
- (1) In the case of a local government agency within a county, an official copy of the Resolution or Order shall accompany the application for a grant from that local government entity, as well as an official copy of the Resolution or Order from its county board of supervisors, authorizing the local government agency to participate in the program.
- (2) The Resolution or Order referred to in subdivision (a)(1) shall authorize the designated representative(s) to sign the application, contract, and any claims for payment or reimbursement.
- (3) The department may deny the application if an applicant agency fails to provide the required Resolution(s) or Order(s) with its grant application.
- (b) An applicant agency submits a completed application that complies with the requirements of Section 5303.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.

5303. Grant Application.

- (a) Any application for a grant awarded by the department under this article shall meet all of the requirements of this article. An application form for grant funding shall be submitted on a form provided by the department and shall include the following: date submitted, the applicant's legal name, mailing address, entity type, contact person name, title, address, telephone and e-mail, name of water body, scope of project including components required by these regulations, details to be financed with grant funding, a description and status of any permits and approvals required, specific budget and costs, status and sources of other funding, a description of how the proposal is a part of, and benefits from, a regional-scale dreissenid mussel infestation prevention plan including the

economic, ecological, recreational or other regional impact from a dreissenid mussel infestation; eligibility requirements set forth in section 5302 including confirmation of applicant ownership, control, and/or management of the site including rights of way to and from the area and authorization through provision of a Resolution or Order from the applicant's governing body.

- (b) Applications for grants shall conform to procedures established within this article, which include a prevention plan and shall include measurable performance goals consistent with Section 2302 of the Fish and Game Code
- (c) Applications for grants shall not be considered for funding if submitted after the filing deadline set by the department.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.

5304. Grant Award Factors.

When awarding grants, the department shall:

- (a) Give priority to applicants whose program provides a dreissenid mussel infestation prevention plan that is consistent with Section 2302 of the Fish and Game Code and that also includes visual and manual inspection standards and other infestation prevention procedures consistent with either the Department of Fish and Game's *Invasive Mussel Guidebook for Recreational Water Managers and Users*, dated September 2010, or the Natural Resources Agency's *Aquatic Invasive Species Management Plan*, dated January 2008, or a subsequently adopted updated version of the Guidebook or Management Plan.
- (b) Give preference to regional-scale dreissenid mussel infestation prevention plans.
- (c) Take into consideration the unique economic, ecological, and recreational impacts to rural and urban reservoirs by dreissenid mussel infestation.
- (d) Applications will not be considered for any water bodies that currently have an infestation of Dreissenid Mussels.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.

5305. Allowable and Non Allowable Costs.

Grant funds awarded pursuant to this article may be used only for reasonable regulatory costs that include:

- (a) Costs directly connected with the implementation of a local or regional dreissenid mussel infestation prevention plan that meets the requirements of Section 2302 of the Fish and Game Code.
- (b) Costs directly connected with the investigation and inspection of a conveyance for the presence of dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of the Water Code.
 - (1) For the purposes of this Section, conveyances include vessels and other watercraft, and associated vehicles, containers, and trailers that may also carry or contain adult or larval dreissenid mussels.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.

5306. Grant Reporting and Reimbursement.

As a condition of receiving a Quagga and Zebra Mussel Infestation Prevention grant pursuant to this Section, the grantee shall report the following data on a quarterly basis to the department regarding dreissenid mussel prevention and inspection programs implemented with the grant:

- (a) The grantee shall report measurable performance and goals during the grant term as stated in its dreissenid mussel infestation prevention plan and inspection program.
- (b) The grantee shall receive State reimbursement under this grant program only when invoices for expenditures for the grantee's dreissenid mussel prevention

and inspection program activities have been approved by the department and submitted according to the grant terms and conditions.

- (c) The department shall not reimburse expenses not contained in the approved budget unless the grantee notifies the department in advance of the changes and provides justification of the changes and resulting budget revisions within the total grant award. Reimbursements shall not be made on unapproved changes or costs above the grant award.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.

5307. Audits and Appeals.

- (a) The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of the Quagga and Zebra Mussel Infestation Prevention Grant program funds. The department or its delegated representatives may conduct periodic audits of a grantee to determine whether a grantee is in compliance with State and Federal law, and whether the requests for reimbursement submitted by a grantee accurately represent the amount due to the grantee.
- (b) The department shall notify a grantee in writing at least one week in advance of all scheduled audits.
- (c) A grantee shall make all records available for review to the department or its designated representatives. A grantee shall maintain records in accordance with the requirements specified in the grant terms and conditions developed by the department. Such records shall include, but not be limited to, all receipts and invoices for expenditures made using grant funds.
- (d) If the department or its representatives conduct an audit of a grantee, the department shall issue an audit report to the grantee. The audit report shall include a description of how the audit was performed and a listing of findings, including any reimbursement to which the grantee was not entitled.

- (e) When an audit report indicates that a grantee has requested and received payments from the department under this grant program to which it is not entitled, the grantee shall refund to the department that portion of the reimbursement to which it was not entitled, according to the audit report, within 90 days of notification by the department of such finding unless the grantee submits an appeal pursuant to subdivision (g) of this section.
- (f) When it is established that a grantee improperly requested and received payments under this program, the grantee shall refund to the department all reimbursements requested from the department under this program within 90 days of notification by the department of such findings, unless the grantee submits an appeal pursuant to subdivision (g) of this section.
- (g) A grantee has the right to appeal the findings of any audit of its reimbursements to the Deputy Director of the Department of Parks and Recreation, Division of Boating and Waterways within 90 days of notification by the department of the audit findings. The appeal shall be in writing, and the grantee shall include in the written appeal a complete description of the issues in question, the grantee's reason for the appeal, and all written evidence supporting grantee's appeal. The appeal process shall commence with a conference between a representative of the department and the grantee to review the issues and evidence. If the appeal is not resolved to the grantee's satisfaction at this level of review, the grantee may request that the matter be reviewed through a formal hearing conducted in accordance with Government Code Section 11500 et seq.

NOTE: Authority cited: Section 676, Harbors and Navigation Code. Section 2302, Fish and Game Code. Reference: Sections 60.2, 60.8, 61.6, 61.8, 63.9, Harbors and Navigation Code.