

**Boating Safety and Enforcement Financial Aid Program
Proposed Regulations**

Title 14 - "Natural Resources," Division 4 – "Department of Boating and Waterways," Chapter 1
– "Department of Boating and Waterways" (California Code of Regulations Section 6593)

**ARTICLE 4.5.1 BOATING SAFETY AND ENFORCEMENT FINANCIAL AID
PROGRAM**

SECTION

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Boating Safety and Enforcement Financial Aid Program Proposed Regulations

Proposed regulatory action: Adopt Article 4.5.1 and Section 6593 in Title 14 of the California Code of Regulations.

Article 4.5.1 Boating Safety and Enforcement Financial Aid Program

6593 Short Title.

This article shall be known and may be cited as the Boating Safety and Enforcement Financial Aid Program Regulations under which the Department of Boating and Waterways may provide State financial aid to local agencies' qualified boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.1 Purpose.

The purpose of the boating safety and enforcement financial aid program is to augment a participating agency's revenues for boating safety and enforcement activities when an agency incurs boating safety and enforcement program costs that exceed actual vessel taxes received by the county for boating safety and enforcement activities. The program is not intended to fully fund a participating agency's boating safety and enforcement activities and agency participation in the program is entirely voluntary.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.2 Definitions.

The following definitions shall be used in this article.

(a) "Administrative costs" are the costs incurred by a participating agency for indirect services necessary for the operation of a participating agency's boating safety and enforcement program.

(b) "Agency" means a county of the State, or a city, district or other public agency within a county, that participates, or applies to participate, in the boating safety and enforcement financial aid program.

(c) "Allowable costs or expenses" means the costs or expenditures made by a participating agency that are authorized and allowed by the department.

(d) "Baseline financial aid eligibility allocation" means a participating agency's financial eligibility allocation as described in Section 6593.8 of this article.

(e) "Boat patrol" means a boating safety and enforcement unit of qualified boating safety and enforcement officers (full-time or seasonal).

(f) “Boating safety and enforcement officer” means trained personnel authorized and retained by a participating agency to perform boating safety and enforcement activities.

(g) “Boating safety programs” and “boating safety and enforcement programs” are participating agency programs comprised of boating safety and enforcement activities.

(h) “Calendar year” means the period of twelve consecutive months that runs from January 1 through December 31 of the same year.

(i) “Department” means the California Department of Boating and Waterways, unless otherwise specified.

(j) “Equipment” means boating-specific equipment or other support equipment used to implement or conduct boating safety and enforcement activities.

(k) “Fiscal year” means the period of twelve consecutive months that runs from July 1 of one year through June 30 of the following year.

(l) “Fringe benefits percent” is the percentage used by the participating or applicant agency to estimate the costs of non-salary benefits for an employee. The percent is expressed as a percentage of direct salary costs and is calculated by dividing the fringe benefits cost into the direct salary cost of an employee.

(m) “Mid-range or equivalent journeyman level average hourly pay” is the average hourly pay for a typical employee of an applicant agency. The mid-range is used if there are an odd number of pay steps or an equivalent is used if there is an even number of pay steps. An equivalent is calculated by averaging the two middle pay steps.

(n) “Quarter” means a period of three consecutive months during the fiscal year. The quarters of the State’s fiscal year are comprised of four consecutive three-month segments, as noted below.

(1) Quarter 1 = July 1 through September 30

(2) Quarter 2 = October 1 through December 31

(3) Quarter 3 = January 1 through March 31, and

(4) Quarter 4 = April 1 through June 30.

(o) “Program reduction” means a reduction in a participating agency’s annual allocation due to insufficient program expenditures as described in Section 6593.8 of this article.

(p) “Unallocated funds” are funds that have not been spent or used by participating agencies’ boating safety and enforcement programs as a result of participating agencies’ program reductions.

(q) “Vessel taxes received by the county” are funds equal to 100 percent of the amount received by the county from the share of personal property taxes on vessels allocated to the County General Fund for boating safety and enforcement activities.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.3 Program Manual.

The provisions of the boating safety and enforcement financial aid program, as found in Section 663.7 of the Harbors and Navigation Code, and the regulations found in this article, are incorporated into the program manual titled, “Boating Safety and Enforcement Program Manual.” The program manual shall be available to all applicant and participating agencies and to any interested member of the general public who requests a copy.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.4 Boating Safety and Enforcement Activities.

For the purposes of receiving State financial aid under Section 663.7 of the Harbors and Navigation Code, boating safety and enforcement activities include:

(a) Enforcement of State and local laws and regulations for boating activities by means of vessel, foot patrol, motor vehicle, or aircraft. Educating the public on State and local laws and regulations is included as enforcement.

(b) Inspection of vessels for compliance with required safety equipment, registration requirements, and sanitation and pollution control that satisfy the intent of State law.

(c) Supervision of organized on the water boating activities or water events that allows for the protection and safety of the boating public during such activities or events.

(d) Search and rescue operations originating from on the water boating activities, including the recovery of drowned bodies that are the result of boating activities.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.5 Eligibility.

Agencies requesting permission to participate are entitled to receive State financial aid for boating safety and enforcement programs on waters under their jurisdiction provided the following conditions are satisfied:

(a) An applicant agency provides a certified copy of the resolution or minute order from the County Board of Supervisors with the application for financial aid under the provisions of Section 663.7 of the Harbors and Navigation Code.

(1) In the case of a local government agency within a county, a certified copy of the resolution or minute order shall accompany the application for financial aid from that local government entity, as well as a certified copy of the resolution or minute order from its County Board of Supervisors, authorizing the agency to participate in the program.

(2) The resolution or minute order shall:

(A) Authorize the chairperson, or designated representative, to sign the application and contract.

(B) Authorize the chairperson, or designated agency representative, to sign the department's form for each reimbursement claim.

(C) Authorize the County Auditor to certify the amount of prior year vessel taxes received by the county.

(3) The department may deny the application if the applicant agency fails to provide the above-referenced information or data.

(b) An applicant agency submits a completed application that complies with the requirements of Section 6593.6.

(c) The county in which an applicant agency resides agrees to spend an amount equal to 100 percent of vessel taxes received by the county for boating safety and enforcement activities prior to the agency receiving State financial aid under this program.

(d) An applicant agency maintains an operational boat patrol while receiving State financial aid under this program.

(e) An applicant agency agrees to comply with the reimbursement process in Section 6593.10.

(f) An applicant agency agrees to comply with the reporting requirements in Section 663.7 of the Harbors and Navigation Code.

NOTE: Authority Cited: Sections 663.7 (b), 663.7 (h), and 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.6 Application.

(a) An agency applying for financial aid under the boating safety and financial aid program shall complete an annual application. The annual application for a county shall accompany all applications from other governmental agencies within the county requesting aid.

(b) The department shall provide all required forms and instructions to applicant agencies.

(c) The application shall include, at a minimum, the following estimates for waterways under the jurisdiction of each applicant agency:

- Size of waterway(s) (square miles for lakes and miles for rivers or coastline)
- Usage of waterway(s) (types of boating activities)
- Types of patrols (on-water, foot, truck/vehicle, and/or air)
- Workload seasonality adjustments (unusual increases/decreases in staffing)
- Number of boats on the waterways.

(d) The completed application shall be submitted to the department at least 14 months prior to the start of the fiscal year for which State financial aid is requested.

(e) Subsequent to the expiration of the filing date, amendments to the applications shall be allowed only subject to the approval of the department.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.7 Annual Contract.

(a) Every participating agency shall enter into an annual contract with the Department prior to the start of the fiscal year. The contract shall indicate, at a minimum, the financial aid eligibility allocation amount for the ensuing fiscal year and whether a participating agency is to submit reimbursement claims on a monthly or quarterly basis.

(b) The Department shall send every participating agency a contract at least 90 days prior to the start of the fiscal year. A participating agency shall sign and return the contract to the Department at least 15 days prior to the start of the fiscal year. Failure of a participating agency to sign and return the contract 15 days prior to the start of the fiscal year may result in a participating agency losing their financial aid eligibility allocation for the ensuing fiscal year.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.8 Financial Eligibility Formula.

The following formula shall be used for determining annual maximum eligibility allocation amounts for a participating agency eligible for State financial aid under the boating safety and enforcement financial aid program. The State boating safety and enforcement program financial eligibility allocation shall include total State boating safety and enforcement program financial aid for all public entities within a county.

(a) A county that received an allocation in fiscal year 1996/97 shall receive, at a minimum, the amount of the fiscal year 1996/97 allocation, unless the county's program has been reduced by the county or the State. This amount is defined as the baseline State financial eligibility allocation. (See **Exhibit 1 – Baseline State Financial Eligibility Allocations**)

(b) A county that received an allocation subsequent to fiscal year 1996/97 but prior to fiscal year 2003/04 shall receive, at a minimum, the amount of the most recent fiscal year allocation, unless the county's program has been reduced. This amount is also defined as the baseline State financial eligibility allocation and is likewise shown in Exhibit 1.

Exhibit 1 – Baseline State Financial Eligibility Allocations

County	FY 1996/97 State Financial Eligibility Allocation	Subsequent Program Reductions	Allocation Subsequent to FY 1996/97 but Prior to FY 2003/04	Baseline State Financial Eligibility Allocation
1. Amador County	\$95,781			\$95,781
2. Butte County			\$148,069	148,069
3. Calaveras County	159,868			159,868
4. Colusa County	96,091			96,091
5. Contra Costa County	379,713			379,713
6. Del Norte County	130,775			130,775
7. El Dorado County	309,479			309,479
8. Fresno County	356,210			356,210
9. Glenn County	108,111			108,111
10. Humboldt County	110,313			110,313
11. Imperial County	223,536			223,536
12. Kings County			67,428	67,428
13. Lake County	271,380			271,380
14. Lassen County	91,912			91,912
15. Los Angeles County	1,500,000			1,500,000
16. Mariposa County	213,873			213,873
17. Mono County	101,444			101,444
18. Napa County	246,087			246,087
19. Nevada County	83,243			83,243
20. Placer County	52,916			52,916
21. Plumas County	118,687			118,687
22. Sacramento County			370,000	370,000
23. San Bernardino County			190,000	190,000
24. San Joaquin County	376,279			376,279
25. Shasta County	523,567			523,567
26. Sierra County	57,088			57,088
27. Siskiyou County	71,489			71,489
28. Solano County	232,444			232,444
29. Sonoma County	263,226			263,226
30. Sutter County	167,584			167,584
31. Tehama County	120,000			120,000
32. Trinity County	106,714			106,714
33. Tulare County	174,132			174,132
34. Tuolumne County	215,880			215,880
35. Yolo County	225,776			225,776
36. Yuba County	140,905			140,905
Total	\$7,324,503	\$0	\$775,497	\$8,100,000

(c) Beginning with fiscal year 2005/06 and continuing with each fiscal year thereafter:

(1) A participating agency that does not spend their entire baseline State financial eligibility allocation in either calendar year 2003 or calendar year 2004 shall have their eligibility allocation reduced in fiscal year 2005/06. The reduced eligibility allocation amount shall equal the highest amount spent in either calendar year 2003 or calendar year 2004. (See **Exhibit 2 - Example of Program Reduction**)

Exhibit 2 – Example of Program Reduction

	Agency A	Agency B
Baseline State Financial Eligibility Allocation (SFEA) – FY 2004/05	\$100,000	\$100,000
Calendar Year 2003 Expenditures	90,000	95,000
Calendar Year 2004 Expenditures	95,000	90,000
FY 2005/06 SFEA	95,000	95,000

(2) A participating agency that does not spend their entire baseline State financial eligibility allocation in either of the two most recent calendar years shall have their eligibility allocation reduced in the next fiscal year. The revised eligibility allocation amount shall equal the highest amount spent during one of the two most recent calendar years.

(3) Unallocated funds as a result of (1) or (2) shall be reallocated on an annual one-time basis to those participating agencies that incurred expenditures exceeding their baseline eligibility allocations during the most recent calendar year. These unallocated funds shall be allocated on a prorated basis to participating agencies based on the individual participating agency's expenditures that exceeded baseline eligibility allocations divided by the total statewide expenditures that exceeded baseline eligibility allocations applied to the total statewide unallocated funds. Under no circumstances shall a participating agency receive more than 20 percent of the total funds appropriated to all participating agencies for boating safety and enforcement programs. The total amount of funds that are reallocated shall not exceed the amount of the total statewide surplus. The reallocated funds shall be treated as a one-time reallocation of unspent funds. (See **Exhibit 3 - Example of Reallocation of Unallocated Funds**)

Exhibit 3 – Example of Reallocation of Unallocated Funds

	Agency C	Rest of Agencies	Total
Baseline State Financial Eligibility Allocation (SFEA) - FY 2004/05	\$100,000	\$8,000,000	\$8,100,000
Calendar Year 2004 Deficit	-10,000	-390,000	-400,000
Percent of Statewide Deficit	2.5%	97.5%	100%
Unallocated Funds		100,000	100,000
Reallocation of Funds	<u>2,500</u>	<u>97,500</u>	<u>100,000</u>
FY 2005/06 SFEA	\$102,500	\$7,997,500	\$8,100,000
Calendar Year 2005 Deficit	-10,000	-90,000	-100,000
Percent of Statewide Deficit	10.0%	90.0%	100%
Unallocated Funds		10,000	10,000
Reallocation of Funds	<u>1,000</u>	<u>9,000</u>	<u>10,000</u>
FY 2006/07 SFEA	\$101,000	\$7,999,000	\$8,100,000

(d) Beginning with fiscal year 2003/04 and continuing with each fiscal year thereafter, the formula for an applicant agency applying to the program shall be as follows, provided that sufficient funds are appropriated specifically for new agencies:

$$\begin{aligned} &\text{Total Estimated Boating Safety and Enforcement Costs} \\ &\quad \text{Less Vessel Taxes Received by the county} \\ &\text{Equals State Financial Eligibility Allocation} \end{aligned}$$

(1) Total Estimated Boating Safety and Enforcement Costs shall be based on the estimated work-hours of patrol required for boating safety and enforcement activities. Each agency shall justify the estimated number of work-hours of patrol by documenting various operations data as part of the application.

(2) The number of work-hours shall be multiplied by the agency's mid-range or equivalent (i.e., third of five pay steps) journeyman level average hourly pay, and the agency's customary average fringe benefits percent, to estimate total personnel costs. This total personnel costs amount shall be multiplied by 30 percent to estimate associated operations, maintenance, and equipment costs. The sum of total personnel costs, and associated operations, maintenance, and equipment costs, shall equal estimated boating safety and enforcement direct costs, which may be increased by up to 5 (five) percent for allowable administrative costs to determine the total estimated boating safety and enforcement costs. These total estimated costs shall be offset by the actual prior year vessel taxes received by the county to determine the net amount of State financial eligibility allocation. (See **Exhibit 4 – Example of New Program Calculation**)

Exhibit 4 – Example of New Program Calculation

	Total Estimated Boating Safety and Enforcement Costs	
Provided by Agency	1. Estimated Work-Hours	1,300
Provided by Agency	2. Average Hourly Pay-Journeyman Mid-Range	\$25.00
Provided by Agency	3. Customary Average Fringe Benefits Percent	33%
Product of Lines 1-3	4. Total Personnel Costs	\$43,225
Determined by DBW	5. Associated Operations, Maintenance & Equipment Ratio	30%
Line 4 times Line 5	6. Associated Operations, Maintenance & Equipment Costs	\$12,968
Line 4 plus Line 6	7. Estimated Boating Safety and Enforcement Direct Costs	\$56,193
Line 7 times 5%	8. Maximum Allowable Administrative Costs	\$2,810
Line 7 plus Line 8	9. Total Estimated Boating Safety and Enforcement Costs	\$59,003
Provided by Agency	Less Vessel Taxes Received by the county	(9,003)
	FY 2003/04 Baseline State Financial Eligibility Allocation	\$50,000

(3) Each agency applying for financial aid under this section shall submit documentation supporting their calculations as requested by the department. The department shall prescribe the forms by which an agency shall present the above information. The first year eligibility allocation for any new agency applying to the program shall be considered that agency’s baseline State financial eligibility allocation.

(e) Beginning with fiscal year 2004/05 and continuing with each fiscal year thereafter, a participating agency that demonstrates that their expenditures exceed their baseline State financial eligibility allocations may be eligible for any additional funds appropriated for expansion of existing participating agencies’ boating safety and enforcement programs. Any additional funds allocated to a participating agency under this subsection shall be treated as a program increase to the participating agency’s baseline State financial eligibility allocation.

(f) Beginning with fiscal year 2004/05 and continuing with each fiscal year thereafter, if funds budgeted for the boating safety and enforcement program are less than the sum of the prior year’s individual participating agency allocations, each individual participating agency may have their eligibility allocation reduced in proportion to the overall program shortfall. (See **Exhibit 5 – Example of Fund Shortfall Calculation**)

NOTE: Authority Cited: Section 663.7 (c) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

Exhibit 5 – Example of Fund Shortfall Calculation

Participating Agency	Baseline State Financial Eligibility Allocation (SFEA)	Percent of Baseline SFEA	State Financial Eligibility Allocation Reduction	FY 2004/05 State Financial Eligibility Allocation
1. Amador County	\$95,781	1.2%	\$7,200	\$88,581
2. Butte County	148,069	1.8%	10,800	137,269
3. Calaveras County	159,868	2.0%	12,000	147,868
4. Colusa County	96,091	1.2%	7,200	88,891
5. Contra Costa County	379,713	4.7%	28,200	351,513
6. Del Norte County	130,775	1.6%	9,600	121,175
7. El Dorado County	261,766	3.2%	19,200	242,566
8. Fresno County	356,210	4.4%	26,400	329,810
9. Glenn County	108,111	1.3%	7,800	100,311
10. Humboldt County	110,313	1.4%	8,400	101,913
11. Imperial County	223,536	2.8%	16,800	206,736
12. Kings County	67,428	0.8%	4,800	62,628
13. Lake County	271,380	3.4%	20,400	250,980
14. Lassen County	91,912	1.1%	6,600	85,312
15. Los Angeles County	1,500,000	18.5%	111,000	1,389,000
16. Mariposa County	213,873	2.6%	15,600	198,273
17. Mono County	101,444	1.3%	7,800	93,644
18. Napa County	246,087	3.0%	18,000	228,087
19. Nevada County	83,243	1.0%	6,000	77,243
20. Placer County	52,916	0.7%	4,200	48,716
21. Plumas County	118,687	1.5%	9,000	109,687
22. Sacramento County	370,000	4.6%	27,600	342,400
23. San Bernardino County	190,000	2.3%	13,800	176,200
24. San Joaquin County	376,279	4.6%	27,600	348,679
25. Shasta County	523,567	6.5%	39,000	484,567
26. Sierra County	57,088	0.7%	4,200	52,888
27. Siskiyou County	71,489	0.9%	5,400	66,089
28. Solano County	193,103	2.4%	14,400	178,703
29. Sonoma County	263,226	3.2%	19,200	244,026
30. So. Lake Tahoe City	47,713	0.6%	3,600	44,113
31. Suisun City	39,341	0.5%	3,000	36,341
32. Sutter County	167,584	2.1%	12,600	154,984
33. Tehama County	120,000	1.5%	9,000	111,000
34. Trinity County	106,714	1.3%	7,800	98,914
35. Tulare County	174,132	2.1%	12,600	161,532
36. Tuolumne County	215,880	2.7%	16,200	199,680
37. Yolo County	225,776	2.8%	16,800	208,976
38. Yuba County	140,905	1.7%	10,200	130,705
Total	\$8,100,000	100.0%	\$600,000	\$7,500,000
Amount in Fund for FY 2004/05	\$7,500,000			
FY 2004/05 Shortfall	\$600,000			

6593.9 Allowable and Non-Allowable Costs.

All program expenditures under this program shall be spent on personnel and operations, maintenance, and equipment that are used by a participating agency's boat patrol when conducting boating safety and enforcement activities, and administrative costs attributable to a participating agency's boating safety and enforcement program. All program expenditures, including those made with vessel taxes received by the county, shall comply with the requirements of this Section.

(a) The following are allowable costs under the program:

(1) Personnel costs of boating safety and enforcement officers, including, but not limited to, salaries, wages, overtime and holiday pay, differential pay, on-call pay, workers' compensation premiums, retirement contributions, uniform allowances, insurance, payments made under the Federal Insurance Contributions Act, and any other benefit which is included in a participating agency's local bargaining agreement and approved by the department.

(2) Operations, maintenance, and equipment costs, including, but not limited to, fuel; vessel, vessel trailer and equipment repair; storage of vessels, vessel trailers and equipment; vehicle mileage for vehicles used to tow vessels; hull insurance for vessels; communications equipment for items to be attached or mounted to a vessel or vehicle; per diem and other costs associated with non-POST (California Commission on Peace Officer Standards and Training) boating safety and enforcement training; per diem costs associated with overnight boating safety and enforcement assignments that occur at least 50 miles from the main headquarters; dive gear; utilities (including gas, electricity, water, land-based telephone service, and propane charges), office rental and leases, and office equipment for a boat patrol office located in a geographically separate location than the main headquarters; prorated share of vehicle and aircraft leases; and miscellaneous boating equipment.

(3) Administrative costs attributable to a participating agency's boating safety and enforcement program provided such administrative costs are not more than five percent of the total allowable direct program costs.

(4) A participating agency shall provide written justification and obtain prior written approval from the department in order to be reimbursed for the following costs:

(A) Purchase of communications equipment or the rental or leasing of office space.

(B) Any non-POST training course that an employee of a participating agency plans to attend.

(C) Prorated share of leased vehicles and aircraft.

(D) Out-of-state travel.

(b) The following are not allowable costs under the program:

(1) Any cost, either in its entirety or a prorated share, not associated with a participating agency's boating safety and enforcement program.

(2) The purchase of any type of vessel, vessel trailer, vehicle, or aircraft with State funds. Note: the department administers a financial assistance program for purchase of vessels outside of the boating safety and enforcement program. Also, a participating agency may use vessel taxes received by the county for the purchase, or a prorated share of the purchase, of any type of

vessel, vessel trailer, vehicle, or aircraft provided such equipment is dedicated solely, or on a prorated basis, for boating safety and enforcement activities.

(3) The general costs necessary in employing, outfitting with weapons, and training personnel in accordance with prescribed statutes affecting peace officers, including, but not limited to, drug screening tests, background checks, psychological testing, fingerprinting fees, law enforcement training unrelated to boating safety and enforcement activities, and training in weaponry.

(4) One-time payments for vacation, sick leave, or compensation time off in lieu of overtime due to separation or medical causes.

(5) Any administrative or overhead costs that exceed ten percent of the total cost of a participating agency's boating safety and enforcement program.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.10 Reimbursement Procedures.

The following procedures shall be used to reimburse a participating agency for allowable expenditures under the boating safety and enforcement financial aid program. A participating agency may only receive State reimbursement under this program when actual allowable expenditures on boating safety and enforcement activities exceed actual prior year vessel taxes received by the county.

(a) The department shall provide financial aid, under Section 663.7 of the Harbors and Navigation Code, in the form of reimbursements to cover the costs incurred by a participating agency for boating safety and enforcement activities that exceed vessel taxes received by the county for such services, up to the participating agency's State financial eligibility allocation amount. Reimbursements shall equal the actual amount of allowable costs incurred by a participating agency over and above the actual prior year vessel taxes received by the county, up to the State financial eligibility allocation amount.

(b) A participating agency shall submit claims to the department for the purpose of reimbursement under this program. Claims may be submitted by a participating agency on a monthly or quarterly basis as specified in the annual contract. A participating agency shall submit claims indicating actual costs incurred during the month or quarter and total year-to-date actual costs. Claims shall be submitted irrespective of whether State financial aid is reimbursed to the participating agency during the month or quarter.

(c) Personnel costs shall be reimbursed based on the actual number of hours spent on boating safety and enforcement activities during the month or quarter by each boating safety and enforcement officer of the participating agency. Actual hours for each boating safety and enforcement officer shall be multiplied by the boating safety and enforcement officers' hourly pay to determine direct salary costs. Direct salary costs are multiplied by the participating agency's customary average fringe benefits percent to determine total personnel costs.

(d) Associated operations, maintenance, and equipment costs shall be reimbursed based on actual costs.

(e) Administrative costs attributable to a participating agency's boating safety and enforcement program may either be directly identified or indirectly allocated to the program.

(1) Administrative personnel costs directly identified to a participating agency's boating safety and enforcement program shall be reimbursed based on the actual number of hours spent on administrative activities related to boating safety and enforcement activities during the month or quarter. Actual hours for each administrative staff shall be multiplied by the staffs' hourly pay to determine administrative salary costs. Administrative salary costs are multiplied by the participating agency's customary average fringe benefits percent to determine administrative personnel costs.

(2) Administrative costs that are not readily assignable to a participating agency's boating safety and enforcement program, but are necessary for the operation of the participating agency, shall be identified through the use of an Indirect Cost Rate Proposal (ICRP), a formal allocation method. Participating agencies using this indirect method should obtain the following federal publication: Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." This publication explains how indirect costs may be handled. This publication is available from the Department.

(f) Year-to-date allowable costs shall be offset by annual actual prior year vessel taxes received by the county and year-to-date State financial aid reimbursements to determine the amount of State financial aid on a claim. If actual prior year vessel taxes received by the county have not been expended on boating safety and enforcement activities, a participating agency shall not receive State financial aid during that month or quarter.

(g) The department shall conduct a review of each claim for accuracy, completeness, and applicability to the program. The department may request additional supporting information from a participating agency for justification of expenditures prior to approving a participating agency's claim. Claims that result in reimbursement to a participating agency shall be forwarded to the State Controller's Office for payment once the department has completed the desk review and approved the claim for payment.

(h) Any expenditure omitted by a participating agency from a claim for State financial aid may be submitted by a participating agency for reimbursement with any succeeding claim within 60 days following the last day of the fiscal year.

(1) The issue date of a purchase order, invoice date, or day in which the hours were worked determines the fiscal year in which expenditures occur for the purposes of submitting claims. Date of payment, date received, shipping date, and date of invoice received are not determining factors in the fiscal year in which expenditure is made.

(2) If the cost of utilities overlaps fiscal years, the total cost may be claimed in either fiscal year.

(i) Claims for reimbursement for State financial aid shall be submitted within 60 days following the last day of the monthly or quarterly reporting period. The department may reduce a participating agency's total State financial aid allocation by five percent if the participating

agency exceeds the sixty-day billing period and an additional five percent for every thirty-day period thereafter that the participating agency is late in filing a claim for State financial aid.

NOTE: Authority Cited: Section 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.

6593.11 Audits and Appeals.

The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of State funds. As such, the department may conduct periodic systematic audits of a participating agency in order to determine whether an agency is in compliance with Section 663.7 of the Harbors and Navigation Code and the department's regulations, the claims submitted by a participating agency accurately represent the amount due the agency under the boating safety and enforcement financial aid program, and funds have been expended as required by law or regulation.

(a) The department shall notify a participating agency in writing at least one week in advance of all scheduled audits.

(b) A participating agency shall make records available for review to the department or its representatives. A participating agency shall maintain records deemed necessary by the department for a minimum of five years and shall include, at a minimum, supporting documentation for any claims for reimbursement by the participating agency. Such records shall include actual hours spent on the program (including the name and classification of each employee and the specific boating safety and enforcement activity for which the hours relate), documents supporting the actual salaries used to determine personnel costs, documents supporting the participating agency's customary fringe benefits percentage, receipts for associated operations, maintenance, and equipment costs, equipment maintenance and repair reports, current equipment inventory report, documentation supporting actual vessel taxes received by the county, and other applicable documentation as requested by the Department.

(c) The audit shall include an evaluation of the accounting and control systems of the participating agency.

(d) If the department conducts an audit, the department shall issue an audit report to the participating agency. The audit report shall include a description of how the audit was performed, a summary of audit exceptions and management improvement recommendations, and, to the extent possible, a correction plan discussed with the participating agency describing the specific actions that are planned to be taken, or that have been taken, to correct the deficiencies identified by the department. Future State financial aid payments may be withheld from the participating agency until the deficiencies have been corrected.

(e) When it is established upon audit that a participating agency has claimed and received payments from the department under this program to which it is not entitled, the participating agency shall pay, in addition to that portion of the claim that was improperly claimed, interest on the amount of overpayment from the date in which the amount was improperly claimed to the next claim. The overpayment, plus interest, may be repaid through a reduction to the next claim

for State financial aid. The interest rate shall equal the monthly average rate received on investments in the State Surplus Money Investment Fund.

(f) When it is established that a participating agency fraudulently claimed and received payments under this program, the participating agency shall pay, in addition to that portion of the claim that was improperly claimed, a penalty of 300 percent of the amount improperly claimed. Payments due from a participating agency may be recovered through an offset to the next claim(s) for State financial aid.

(g) A participating agency has the right to appeal the findings of any audit to the director of the department in writing within 90 days after completion of the audit report. The participating agency shall include in the written appeal a description of the items in question and the participating agency's reason for the appeal. The appeal process shall commence with a conference between a representative of the department and the participating agency to review the items in question. If resolution is not resolved to the participating agency's satisfaction, the participating agency 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 663.7 (k) Harbors and Navigation Code. Reference: Sections 650 and 663.7, Harbors and Navigation Code.