TITLE 14. NATURAL RESOURCES

DIVISION 4. DEPARTMENT OF BOATING AND WATERWAYS

CHAPTER 1. DEPARTMENT OF BOATING AND WATERWAYS

ARTICLE 4.5.1. BOATING SAFETY AND ENFORCEMENT FINANCIAL AID PROGRAM

Initial Statement of Reasons

Description of the Public Problem, Administrative Requirements, and Other Conditions and Circumstances these Regulations are Intended to Address:

This regulation package adopts Section 6593, Title 14, California Code of Regulations (CCR) to implement, interpret, and make specific provisions of Assembly Bill (AB) 1827 (Chapter 1354, Statutes of 1969). Specifically, these regulations implement Section 663.7 of the Harbors and Navigation Code (H&N Code), which provides for State financial aid to local agencies for boating safety and enforcement programs on waters under their jurisdiction when certain conditions are satisfied. This program is titled the Boating Safety and Enforcement Financial Aid Program.

A report prepared by the Department of Harbors and Watercraft (now the Department of Boating and Waterways-the Department) in 1968 (*A Study of Boat Use by Counties*) served as the basis for AB 1827 (along with various other reports and a conference of State, federal and local officials in 1966) and identified that many counties found their share of personal property taxes on boats insufficient to finance the total boating law enforcement requirements, especially when boat use in a county was from boaters not residing in the county. AB 1827 established a formula for determining the maximum amount of State financial aid for which an agency was eligible, which was the cost of boating safety and enforcement program needs less boat taxes and fees charged for boating safety and enforcement activities. A letter from the then Department Director in response to an inquiry by Assemblyman Chappie summarized the intent of AB 1827 to "help those counties with heavy boating safety and enforcement needs created by boats from outside their boundaries and with little or no revenue from boat taxes and fees." Further, Assemblyman Milias, the sponsor of AB 1827, was quoted in the Gilroy Dispatch in 1969 when discussing the purpose of the program, "that many counties, however, have an extremely high boating use of recreational waters but very few resident boat owners, and the revenues cannot provide adequate boating law enforcement for a high volume of boats from outside the county." Thus, the intent of the program is to augment local agencies revenues for boating safety and enforcement activities when such revenues are insufficient to cover the costs.

In order to fund the Boating Safety and Enforcement Financial Aid Program, another provision of AB 1827 increased vessel registration fees in support of local boating safety and enforcement programs as provided in Section 663.7 of the H&N Code. The increase in funds is specifically dedicated to boating safety and enforcement programs.

The broad objective of developing these regulations is to provide a framework within which the Department can administer and manage the Boating Safety and Enforcement Program, and to provide local boating safety and enforcement agencies with program guidelines.

Specific Purpose and Rationale for Necessity:

The specific purpose and rationale for necessity for each section is discussed below:

Section 6593. "Short Title."

Specific Purpose: Section 6593 provides a title to summarize and identify the regulations in this article and cite the applicable section of the H&N Code.

Rationale for Necessity: This section is necessary to provide an easy reference for the program and to provide readers with the applicable authority section of the H&N Code.

Section 6593.1. "Purpose."

Specific Purpose: Section 6593.1 describes the overall purpose of the Boating Safety and Enforcement Program.

Rationale for Necessity: This section is necessary to clarify that the Boating Safety and Enforcement Program is intended to augment a local government's revenues when such revenues are insufficient to cover the costs of providing boating safety and enforcement activities as defined in Section 6593.4 of these regulations. The intent of AB 1827 was to provide financial aid to local agencies with insufficient revenues from local boating taxes and fees to cover the costs of a boating safety and enforcement program. Financial aid under this program is intended to provide assistance to local agencies to spend within the scope of H&N Code 663.7 and requires local agencies to utilize boat taxes prior to receiving State financial aid.

Section 6593.1 is also necessary to inform local government agencies that participation in the program is voluntary. Any local agency may opt not to participate in the program if they choose to spend their boat taxes on activities other than boating safety and enforcement programs. The 1968 report, *A Study of Boat Use by Counties,* recommended "where the county has adequate revenue from boating activities, such as boat property taxes, there is no basis for requesting outside assistance for financing boating law enforcement." Not all agencies require State financial aid for boating safety and enforcement activities and, as such, all agencies may not choose to participate in this program.

Section 6593.2. "Definitions."

Specific Purpose: The provisions of this section establish definitions for the terms used throughout these regulations.

Rationale for Necessity: The definitions are necessary to ensure that the terminology in the proposed regulations is consistent and understandable by entities that are affected by these regulations.

Subsection (a) defines the term "administrative costs" as used in determining allowable and non-allowable costs. This definition is included to assist participating agencies understand which costs are reimbursable under the program.

Subsection (b) defines the term "agency." This definition is included to assist local agencies and the public in understanding which entities are eligible for the program.

Subsection (c) clarifies the term “allowable costs or expenses” for purposes of the program. This definition is included so that participating agencies understand that it is up to the Department, based on the regulations, to authorize and approve reimbursement of expenditures.

Subsection (d) defines the term “baseline financial aid eligibility allocation” which is used in the financial eligibility formula. This definition is included to assist participating agencies in understanding the financial eligibility formula.

Subsection (e) defines the term “boat patrol” which is one of the qualifying criteria for eligibility in the program. This definition is necessary to inform agencies what is expected of them in terms of maintaining a boat patrol.

Subsection (f) clarifies the term “boating safety and enforcement officer.” This definition is included to clarify that the term officer as used in this context not only includes a peace officer but any trained personnel authorized and retained by a participating agency to perform boating safety and enforcement activities.

Subsection (g) clarifies the use of the terms “boating safety programs” and “boating safety and enforcement programs.” This definition is included so that both terms are applied uniformly and that the meanings of both terms are consistent.

Subsection (h) defines the period of time in a “calendar year” for determining financial eligibility allocations under this program. This definition is included to differentiate a calendar year from a fiscal year.

Subsection (i) clarifies the term “Department” for purposes of these regulations. This definition is necessary to avoid replication of the full department name throughout these regulations.

Subsection (j) clarifies the term “equipment” for purposes of this program. This definition is included to inform participating agencies what is considered equipment appropriate for program use.

Subsection (k) defines the period of time in a “fiscal year” for reporting and reimbursement under this program. This definition is included to differentiate a fiscal year from a calendar year.

Subsection (l) clarifies the term “fringe benefits percent” for participating and applicant agencies. This term is necessary for clarity purposes.

Subsection (m) clarifies the term “mid-range or equivalent journeyman level average hourly pay” as used in the financial eligibility formula. This definition also clarifies when to use the mid-range average hourly pay and when to use the equivalent average hourly pay.

Subsection (n) defines the period of time in a “quarter” for reimbursement under this program. This definition is needed to inform participating agencies as to the reporting periods used under this program.

Subsection (o) defines the term “program reduction” as used in the financial eligibility formula. This definition is included to assist participating agencies in understanding the financial eligibility formula and to clarify what is meant by H&N Code Section 663.7(c)(1) regarding when a county’s program is reduced.

Subsection (p) defines the term “unallocated funds” as used in the financial eligibility formula. This definition is included to assist participating agencies understand the financial eligibility formula. Unallocated funds temporarily (i.e., non-recurrently) become available as a result of program reductions and are reallocated to participating agencies that demonstrate a need for such funds.

Subsection (q) defines the term “vessel taxes received by the county” as used in this program. This term is necessary to specify the purpose or intended use of these funds.

Section 6593.3. “Program Manual.”

Specific Purpose: This section references the program manual developed by the Department for administration of this program.

Rationale for Necessity: This section is necessary to inform agencies and the public that a program manual is available from the Department. The Department annually reviews the manual and incorporates applicable laws and regulations into the manual. The manual provides procedural details for administering this program in accordance with applicable laws and regulations with examples to assist agencies in understanding how the program is administered.

The section requires that the Department furnish the program manual to all applicant and participating agencies, and interested members of the general public, when requested to do so.

Section 6593.4. “Boating Safety and Enforcement Activities.”

Specific Purpose: This section describes the activities that constitute “boating safety and enforcement activities.” A participating agency must be performing one or more of the activities included in this section in order for the cost to be considered applicable to this program.

Rationale for Necessity: Section 663.7(a) of the H&N Code defines boating safety and enforcement activities. This section is necessary for clarity and consistency among participating agencies as to which activities constitute boating safety and enforcement activities.

Subsection (a) specifies that enforcement of State and local measures for regulation of boating activities is a component of boating safety and enforcement. This subsection clarifies the means by which a participating agency may enforce these laws and regulations to include vessels, foot patrols, motor vehicles, or aircraft. These methods are specified and approved because they are the most commonly used methods of enforcement.

Subsection (a) further clarifies that educating the public on State and local laws and regulations is a component of an enforcement activity because public awareness of boating laws and regulations enhances boating safety on the waterways.

Subsection (b) specifies that inspection of vessels is a component of boating safety and enforcement. Inspection of vessels for compliance with required safety equipment, registration requirements, and sanitation and pollution control are included activities because inspection of these items serves to verify compliance with boating laws and regulations.

Subsection (c) specifies that supervision of organized on the water boating activities or water events is a component of boating safety and enforcement because it allows for the protection and safety of the boating public during such activities or events.

Subsection (d) specifies that search and rescue operations are a component of boating safety and enforcement. It also specifies that such activities must originate from on the water boating activities in order to be considered boating safety and enforcement activity under this program. This excludes search and rescue operations resulting from other non-boating activities, such as swimming from shore, vehicle recovery, or surfing because they are not directly related to boating safety and enforcement activities.

Section 6593.5. "Eligibility"

Specific Purpose: This section specifies the conditions that must be satisfied for an agency to be eligible to participate in the program.

Rationale for Necessity: H&N Code Section 663.7(e) requires agencies to submit a resolution to the Department authorizing the agency to participate in the program and guaranteeing that an amount equal to 100 percent of the personal property taxes on vessels received by the county is first used for boating safety programs before being eligible to receive boating safety and enforcement funds. This section is necessary to clarify these requirements so that local agencies are aware of the additional requirements that are necessary to implement and administer the program so that they can determine whether they are eligible or wish to participate in the program.

Subsection (a) clarifies that an applicant agency may submit, with the application, a resolution or a minute order in lieu of a resolution as a means of authenticating authority to participate in the program. Subsection (a) also clarifies that the resolution or minute order must be certified so that the Department can ensure that the resolution or minute order is bonafide.

Subsection (a)(1) clarifies that other governmental agencies within a county must also submit a resolution or minute order and be included with the county's resolution or minute order and application. This is necessary to ensure all governmental agencies of a county coordinate their boating safety and enforcement programs through the county.

Subsection (a)(2) specifies the designated signors of the resolution or minute order and related documents. Specifically, subsection (a)(2)(A) specifies that the resolution or minute order shall authorize the chairperson, or designated representative, to sign the application and contract. This is required in order for the Department to verify that the application and contract are bonafide. Subsection (a)(2)(B) specifies that the resolution or minute order shall authorize the chairperson, or designated representative, to sign the reimbursement claim. This is required in order for the Department to verify that reimbursement claims are true and correct and to support any subsequent audit findings and related penalties. Subsection (a)(2)(C) specifies that the resolution or minute order shall authorize the County Auditor-Controller to certify the amount of prior year vessel taxes received by the county. This is necessary for the Department to ensure that the amount of boat taxes is true and correct and applied against costs in the reimbursement process.

Subsection (a)(3) specifies that the Department has the authority to deny an application if the resolution or minute order does not contain the information required by the previous subsections contained in Section 6593.5. This information is necessary so that applicant agencies understand that failure to provide this information necessary to ascertain the authenticity of various documents required to comply with Section 663.7(e) of the H&N Code may result in denial of an application. This documentation is necessary to protect against fraud and abuse in the program.

Subsection (b) specifies that a condition for receiving State financial aid requires that an applicant agency submit an application that complies with certain requirements that are provided in Section 6593.5 of these regulations. Subsection (b) is necessary to inform an agency that an application must be completed and submitted to the Department in order to be eligible for the program.

Subsection (c) specifies that the county in which an applicant agency resides must agree to spend an amount equal to 100 percent of vessel taxes received by the county on boating safety and enforcement activities prior to the agency receiving State financial aid. This section is necessary to clarify and implement H&N Code Section 663.7(e) by specifying that a county certify that it will spend an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels on boating safety programs. The Department requires that a county and all participating agencies within a county spend all of these revenues prior to receiving State financial aid because this ensures that the revenues have been spent in accordance with the requirements of H&N Code Section 663.7(e) before the program provides reimbursement.

Subsection (d) specifies that an applicant agency must maintain an operational fleet while receiving State funds. This is required because the program goal is to provide State financial aid to local agencies when local revenues are insufficient to cover the costs of boating safety and enforcement activities. The Department believes that in order to conduct boating safety and enforcement activities, an agency must have an operational fleet. Without an operational fleet, an agency would be unable to conduct boating safety and enforcement activities.

Subsection (e) specifies that an applicant agency agree with the reimbursement requirements specified in Section 6593.10. This is necessary to inform agencies that the Department utilizes a reimbursement process and the agency must agree to the reimbursement process to participate in the program.

Subsection (f) specifies that an applicant agency must comply with the reporting requirements in Section 663.7(f) of the H&N Code. This section is necessary in order to clarify for all agencies that proper reporting is needed to maintain proper accountability in this program.

<u>Section 6593.6. "Application"</u>

Specific Purpose: Section 6593.6 specifies the requirement to submit an annual application for participation in the program.

Rationale for Necessity: Subsection (a) specifies that all agencies that request State financial aid under the program to complete an annual application. This requirement is necessary for the Department to know which agencies are applying for State aid to adequately budget or request funding for this program. Subsection (a) also specifies that one application be used for all local agencies within a county. The combined application facilitates all governmental agencies within a county to coordinate their efforts for boating safety and enforcement activities.

Subsection (b) specifies that the Department shall furnish all forms and instructions to agencies wishing to apply for State financial aid. This is necessary for uniformity of the application process.

Subsection (c) specifies that agencies must include operational data on their application, including size of waterways, usage of waterways, types of patrols, workload seasonality adjustments, and number of boats on the waterways. These operational statistics provide the Department with functional characteristics and program needs of each agency based on patrol area, boating activities, types of patrols, staffing, and boats using the waterways patrolled so that the Department can evaluate the level of patrol proposed by the agency.

Subsection (d) specifies that agencies must submit their completed applications at least 14 months prior to the start of the fiscal year for which they are requesting funds. This timeframe is necessary so that the Department can compile applications from all requesting agencies and, if necessary, prepare a Budget Change Proposal requesting additional State funds. The California Resources Agency requires the Department to submit initial Budget Change Proposals in July of the fiscal year prior to the request for funds. Applications submitted 14 months in advance allow the Department two months to prepare a Budget Change Proposal to ensure adequate funding for the program.

Subsection (e) specifies that amendments to the applications are allowed if the Department approves such amendments. The ability to review and approve amendments after the filing date specified is necessary to allow the Department to make budgetary changes on a case by case basis.

Section 6593.7. "Annual Contract"

Specific Purpose: Section 6593.7 specifies what is included in the annual contract between each participating agency and the Department and the timing for submission of signed contracts.

Rationale for Necessity: Subsection (a) specifies that all participating agencies must enter into a contract with the Department so that each participating agency is fully aware of the conditions placed upon them for participating in the program. This section also specifies that the contract will indicate the amount of financial aid for a participating agency that allows the participating agency to gain authority from the county to incur expenditures against these revenues. During the Stakeholder Workshop, several participating agencies indicated they required a stronger commitment of funds from the Department to present to county fiscal staff in order to budget and spend the State financial aid prior to receiving reimbursement. A contract provides a stronger commitment than a financial letter to allow participating agencies to budget and expend funds more timely. Subsection (a) also specifies that the contract shall identify whether the participating agency is to submit claims on a monthly or quarterly basis in order to allow the Department to prepare for either monthly or quarterly claims. Again, during the Stakeholder Workshop, participating agencies expressed a concern with the current quarterly reimbursement process and inability to manage the program without knowing the amount of available State financial aid remaining towards the end of the fiscal year. Allowing participating agencies the option of a monthly reimbursement process allows for better up-to-date management of program expenditures.

Subsection (b) specifies that the Department shall provide a copy of the contract to each participating agency at least 90 days prior to the start of the fiscal year in order to allow participating agencies to gain approval of and sign the contract prior to the start of the fiscal year. Subsection (b) also specifies that each participating agency must sign and return the contract to the Department prior to 15 days before the start of the fiscal year in order for the Department to process the signed contracts. Subsection (b) also specifies that a participating agency may lose their financial aid allocation for the year if it does not submit a signed contract to the Department prior to 15 days before the start of the fiscal year so that participating agencies are informed of the consequences of not complying with Section 6593.7(b).

Section 6593.8. "Financial Eligibility Formula"

Specific Purpose: Section 6593.8 specifies the financial eligibility formula under the program for agencies. The formula describes the maximum amount a participating agency may receive under the program, the formula for reallocating unused funds among participating agencies, the formula for determining the maximum amount a new agency may receive under the program, the formula for identifying additional needs for program expansion of participating agencies, and the formula for across-the-board allocation reductions when revenues in the Harbors and Watercraft Revolving Fund decrease.

Rationale for Necessity: H&N Code Section 663.7(c)(1) requires the Department to adopt and utilize a formula for the program. This section is necessary to comply with Section 663.7(c)(1) of the H&N Code that says the Department shall adopt and utilize a formula.

This section is necessary to inform agencies as to the formula to be used for determining the maximum eligibility allocation amount for a participating agency that meets the eligibility requirements.

This section also informs agencies that the maximum eligibility allocation amounts for each participating agency includes State boating safety and enforcement program aid for all public agencies within a county. This is necessary for the Department to ensure that vessel taxes are properly accounted for and that all local agencies within a county that wish to participate are included in one combined allocation.

Subsection (a) specifies that a county that received an allocation in fiscal year 1996/97 shall receive that same allocated amount unless the county's program has been reduced. This requirement is necessary to comply with the requirement of H&N Code Section 663.7(c)(1) and informs counties that their allocation could be lowered if their program is reduced. Subsections (c)(1) and (c)(2) of Section 9593.8 describe what must occur for a county's program to be reduced.

Subsection (a) also clarifies that these amounts are considered the baseline eligibility allocations and provides an exhibit (see Exhibit 1) that shows each county's baseline eligibility allocation. This is necessary to inform each county as to the amount of their baseline State financial eligibility allocation.

Subsection (b) defines baseline eligibility amounts for the four counties that have come into the program since fiscal year 1996/97 but prior to the effective first full fiscal year of these proposed regulations, which is fiscal year 2003/04. As with the agencies that have been in the program since fiscal year 1996/97, these four counties are allocated the same amount as the most recent fiscal year allocation unless their program has been reduced in accordance with subsections (c)(1) and (c)(2). This is necessary to incorporate agencies not specifically addressed by H&N Code Section 663.7 and informs these agencies as to the amounts of their baseline eligibility allocations, which are also shown in Exhibit 1.

Subsection (c) specifies the modifications that can occur to a participating agency's eligibility allocation after these regulations have been in effect for several years. Under subsection (c), a participating agency may have its allocation eligibility modified (or remain unchanged), depending on the actual costs of their boating safety and enforcement program. The intention of this program is to augment budgets of local agencies that have insufficient revenues to cover the costs of boating safety and enforcement activities. The existing allocations are based on a formula developed in 1968 that may no longer reflect the needs of local boating safety and enforcement programs. As a result, a participating agency may incur more costs than are covered by its allocation while other participating agencies may not spend all of their allocations. The Department currently does not have the authority to adjust or reallocate funds among agencies. Subsection (c) authorizes the Department to reallocate funds among counties when specific conditions exist, and carries out the intent of AB 1827 by providing funds to local agencies whose costs of boating safety and enforcement activities exceed 100 percent of the vessel taxes received by the county for boating safety and enforcement activities.

Subsection (c)(1) specifies that if participating agencies do not spend their entire eligibility allocation amount during one of the next two calendar years (2003 or 2004), their eligibility allocation will be reduced in the next fiscal year (FY 2005/06). This provision is necessary to inform participating agencies of the conditions under which their eligibility allocations will be reduced. Providing participating agencies two separate calendar years to spend their entire eligibility allocation amount accommodates unexpected program fluctuations that may occur in one year (such as difficulty in recruiting boating safety and enforcement officers) before an agency's eligibility allocation is reduced.

Subsection (c)(1) also specifies that the amount of a participating agency's revised eligibility allocation shall equal the highest amount spent in either calendar year 2003 or 2004. Again, the purpose of the program is to augment local revenues when such revenues are insufficient to cover the costs of a local boating safety and enforcement program. This approach to a program reduction provides for a gradual decrease in a participating agency's eligibility allocation when its boating safety and enforcement program does not require all of its initial baseline eligibility allocation.

Subsection (c)(1) provides participating agencies with an example of a program reduction (see Exhibit 2 in Section 6593.8). In the example, during calendar years 2003 and 2004, both agencies do not spend their entire baseline eligibility allocation. As a result, their eligibility allocations are reduced to an amount equal to the highest amount spent in either calendar year 2003 or 2004.

Subsection (c)(2) specifies that the same process outlined in subsection (c)(1) will continue in future years. Subsection (c)(2) specifies that if participating agencies do not spend their entire eligibility allocation amount in any one of the two most recent calendar years, their eligibility allocation will be reduced in the next fiscal year. This provision is necessary to inform participating agencies of the conditions under which their eligibility allocations will be reduced. Providing participating agencies two years to spend their entire eligibility allocation amount accommodates unexpected program fluctuations (such as difficulty in recruiting boating safety and enforcement officers) before an agency's eligibility allocation is reduced. Subsection (c)(2) also specifies that the amount of participating agencies reduced eligibility allocation shall equal the highest amount spent in one of the two most recent calendar years.

Subsection (c)(3) specifies how the unallocated (surplus) funds from participating agencies with reduced eligibility allocations are to be reallocated to other participating agencies as an annual one-year increase. Specifically, subsection (c)(3) specifies that unallocated funds shall be reallocated to participating agencies that exceed their baseline eligibility allocations in the most recent calendar year. Participating agencies whose needs exceed their baseline eligibility allocations were chosen as the best demonstration of need for additional funds. The most recent calendar year was chosen as it reflects the most current and up-to-date demonstration of program need.

Several alternatives were considered to determine need. One would reallocate funds to participating agencies that spent at least 95 percent of their allocation. Another would prorate the unallocated funds proportionally to all participating agencies. However, even though these alternatives appear equitable, neither of these alternatives fits with the overall program objective of providing State financial aid to agencies whose program costs exceed local revenues. Both alternatives would provide funds to agencies that have not demonstrated a need for additional revenues to fund their boating safety and enforcement programs. Thus, these alternatives were not chosen.

Subsection (c)(3) specifies that the unallocated funds will be reallocated to participating agencies based on the percentage of total statewide funds that exceeded baseline eligibility allocations reflected by each agency. Thus, if Agency D exceeds its baseline eligibility allocation by $20,000, and, statewide agencies exceed their baseline eligibility allocations by $200,000, Agency D would receive 10 percent of the unallocated funds (20,000 divided by 200,000 equals 10 percent).

Subsection (c)(3) specifies that no agency can receive more than 20 percent of the total statewide eligibility allocations for boating safety and enforcement programs. This is consistent with the provisions of H&N Code Section 663.7(d) and is included in subsection (c)(2) of these regulations for clarity.

Subsection (c)(3) specifies that the total amount of reallocated funds cannot exceed the amount of the statewide surplus. This provision clarifies to participating agencies that under no circumstance will the amount of reallocated funds exceed the amount of surplus funds even if the total statewide amount that agencies exceed their baseline eligibility allocations is greater than the amount of the surplus.

Subsection (c)(3) specifies that the reallocated funds are a one-time increase and are not used to increase a participating agency's baseline eligibility allocation. This is because the unallocated funds fluctuate each year based on the amount of new unallocated funds. Participating agencies should not increase their boating safety and enforcement programs on the assumption that the one-time allocation will be available each year. There may be years in which there are no unallocated funds available and every participating agency's allocation is its baseline eligibility amount.

Subsection (c)(3) provides participating agencies with an example of the reallocation of unallocated funds (see Exhibit 3 in Section 6593.8). In the example, in calendar year 2004 Agency C expends more than its baseline allocation in an amount that equals 2.5 percent of the total statewide deficit. Agency C receives a one-time allocation increase in FY 2005-06 equal to 2.5 percent of the unallocated funds. The increase does not fully cover the deficit incurred by Agency C in calendar year 2004. In calendar year 2005, Agency C incurs 10.0 percent of the total statewide deficit and receives an increase to its baseline allocation in FY 2006-07 equal to 10.0 percent of the unallocated funds. In FY 2006-07, the amount of unallocated funds are lower than FY 2005-06, and 10.0 percent is a lower absolute amount that the 2.5 percent in FY 2005-06.

Subsection (d) specifies for applicant agencies interested in applying to the program how their initial baseline eligibility allocation amount is determined. Specifically, subsection (d) informs applicant agencies that their State financial eligibility allocation equals the difference between their estimated boating safety and enforcement costs and vessel taxes received by the county, provided that sufficient funds are appropriated for new program participants. This formula is consistent with H&N Code Section 663.7 that states the amount of aid for which an agency is eligible shall not exceed the total cost of the boating safety and enforcement program needs, less moneys derived from personal property taxes on boats and fees charged for boating activities. The formula identifies program needs as the total cost of the boating safety and enforcement program.

Subsection (d) specifies that the formula only applies if funds are appropriated for new program participants. This is to ensure that funds for existing programs, including unallocated funds, are not to be used for new participants.

Subsection (d)(1) specifies what constitutes boating safety and enforcement costs. Specifically, boating safety and enforcement costs of new participants are based on the estimated work-hours required for boating safety and enforcement activities. Work-hours form the basis for total costs because work-hours indicate the level of staffing used by an agency to perform boating safety and enforcement activities.

Subsection (d)(1) also specifies that agencies must justify the number of work-hours by documenting various operations data as part of their application. Such data includes size of waterways, usage of waterways, types of patrols, workload seasonality adjustments, and number of boats on the waterways. These operational statistics provide the Department with characteristics of the applicant agency's patrol area so that the Department can evaluate the level of patrol proposed by the agency.

Various studies described below, have been used to develop a specific formula for determining agency eligibility allocations. The original formula developed under AB 1827 multiplied the square miles of water area by the average daily boat use per square mile divided by 16 multiplied by 640. Another formula applied the size of the waterways, a boat density factor, and land area to determine the number of patrols. However, neither of these formulas reflects the current need for State financial aid as identified by the actual costs of participating agencies currently in the program. The formula under subsection (d)(1) gives the Department the latitude to evaluate, on a situation-by-situation basis, the level of patrol proposed by an applicant agency.

Subsection (d)(2) specifies that the number of work-hours is multiplied either by the agency's mid-range or equivalent salary of a journeyman level position plus the agency's customary average fringe benefit percent to estimate total personnel costs. The agency's mid-range journeyman level salary is used for agencies with an odd number of pay steps and the equivalent journeyman level salary is used for agencies with an even number of pay steps. The equivalent journeyman level salary is calculated using the average of the two middle pay steps. The agency's mid-range or equivalent salary for a journeyman level position was chosen because (1) the actual employees may not be known at the time of application so an average level salary reflects a reasonable estimate; (2) it eases the burden on the applicant agency of trying to estimate personnel costs; and (3) it standardizes the approach used by the Department in determining salary costs among agencies applying to the program. The average fringe benefit percent was chosen for the same reasons.

Subsection (d)(2) also specifies that personnel costs be multiplied by 30 percent to develop an estimate of operations, maintenance, and equipment costs. Thirty percent was determined using three years of actual data from existing agencies from fiscal years 1997/98 through fiscal year 1999/2000 (see Attachment A to this Initial Statement of Reasons, *Calculation of Associated Operations, Maintenance, and Equipment Coefficient*). The three-year average of all agencies participating in the program was 29.2 percent, which was rounded up to 30 percent for simplification of calculation.

Subsection (d)(2) also specifies that the sum of personnel costs, and operations, maintenance, and equipment costs, equals estimated boating safety and enforcement direct program costs, which are increased by up to five percent for allowable administrative costs to determine total estimated boating safety and enforcement costs. The Department has determined that these are the components that comprise the costs of a boating safety and enforcement program.

Subsection (d)(2) also specifies that estimated costs are offset by prior year vessel taxes received by the county to determine the State financial eligibility allocation. Prior year vessel taxes received by the county are used so that the applicant agency does not have to estimate the amount of vessel taxes the county may receive. These taxes tend to remain relatively stable from year to year so prior year actual amounts represent a valid approximation of future year amounts. Estimated costs are offset by vessel taxes received by the county to determine the net amount of State financial aid that an agency requires for boating safety and enforcement activities. As discussed previously, the intent of the program is to provide aid to agencies that have boating safety and enforcement costs that exceed local revenues. Local revenues are subtracted from program costs to determine the State financial eligibility allocation.

Subsection (d)(2) provides an example (see Exhibit 4 in Section 6593.8 of the regulations) of a new funding calculation for applicant agencies. Estimated work-hours provided by the agency are multiplied by the average hourly pay and the fringe benefit percentage (also determined by the agency) to estimate total personnel costs. This amount is multiplied by 30 percent to estimate operations, maintenance, and equipment costs. The sum of personnel costs, and operations, maintenance, and equipment costs, equals estimated boating safety and enforcement direct program costs. Estimated direct program costs are increased by five percent for allowable administrative costs to estimate total boating safety and enforcement costs. Total costs are offset by vessel taxes received by the county to determine the baseline State financial eligibility allocation for the agency.

Subsection (d)(3) specifies that participating agencies must submit documentation supporting their calculations. This documentation allows the Department to conduct a review to verify that the calculations are correct and to identify any inconsistencies. Subsection (d)(3) also specifies that the Department will provide the forms that an agency must use when calculating its baseline State financial eligibility allocation. These forms are necessary for consistency in the application process to ensure that the Department has all necessary information.

Subsection (d)(3) specifies that the first year eligibility allocation for a new program participant represents that agency's baseline allocation. This is necessary to maintain consistent nomenclature for new and existing agencies.

Subsection (e) specifies that agencies may be eligible for increases to their baseline eligibility allocations if they demonstrate that their expenditures exceed their baseline eligibility allocations and funds are appropriated for expansion of existing agencies' boating safety and enforcement programs. This provides a standard that the Department may utilize to increase participating agencies' baseline eligibility allocations if funds are appropriated for such purpose. Subsection (e) also specifies that additional funds allocated to a participating agency under subsection (e) be treated as an increase in the agency's baseline eligibility allocation. This increased eligibility allocation will continue unless a condition addressed in one of the other subsections occurs.

Subsection (f) specifies that participating agencies will receive a proportionate decrease in their eligibility allocations if the State funds budgeted for the boating safety and enforcement program are less than the sum of the prior year allocations. This section interprets Section 663.7(c)(1) of the H&N Code that states that the funds allocated to each county shall be reduced in proportion to the reduction in the overall State financial aid. Subsection (f) of this section provides an example (see Exhibit 5 of Section 6593.8) of the fund shortfall calculation using current baseline State financial eligibility amounts and a hypothetical shortfall of $600,000.

Section 6593.9. "Allowable and Non-Allowable Costs"

Specific Purpose: This section specifies what constitutes an allowable or non-allowable cost under the program.

Rationale for Necessity: This section is necessary to inform participating agencies as to what the Department considers allowable and non-allowable program costs.

The Department has determined that the following expenses are allowable because they are the minimum expenditures necessary for conducting boating safety and enforcement activities. This section specifies that all program expenditures must be on personnel, operations, maintenance, or equipment used by the agency's boat patrol when conducting boating safety and enforcement activities, or administrative costs attributable to a participating agency's boating safety and enforcement program. These costs are the only allowable program costs and are defined in more detail in subsection (a). The operations, maintenance, and equipment costs are only allowable when used by a participating agency's boat patrol when conducting boating safety and enforcement activities because the Department requires participating agencies to include only the relevant costs associated with the program. Costs incurred by a participating agency while conducting activities other than boating safety and enforcement activities are not allowed under this program. As stated previously, the purpose of the program is to provide State financial aid to those agencies that have boating safety and enforcement costs that exceed local revenues. The purpose is not to support activities that do not comply with the boating safety and enforcement program as defined in Section 6593.4 of these regulations.

The section clarifies that all program expenditures, including those made with vessel taxes received by the county, are subject to the requirements of this section. There is no differential treatment for costs covered through vessel taxes received by the county and costs covered by State financial aid in terms of what is considered allowable and non-allowable under the program. This is consistent with the intent of AB 1827 to provide financial assistance to agencies with costs that exceed local revenues for boating safety and enforcement activities. There is no distinction in Section 663.7 of the H&N Code that states vessel taxes received by the county may be spent on activities outside of the boating safety and enforcement program. In fact, Section 663.7(e) of the H&N Code states that the "county will expend for boating safety programs during that year no less than an amount equal to 100 percent of the amount received by the county from personal property taxes on vessels." Thus, all expenditures under the program are subject to the same allowable and non-allowable criteria.

Subsection (a) specifies the allowable costs under the program. Subsection (a)(1) specifies allowable personnel costs to include the personnel costs of boating safety and enforcement officers. This is necessary to clarify that the program only covers the costs of officers as defined under Section 6593.2(e) of these regulations. Subsection (a)(1) specifies the types of personnel costs allowable under the program. Salaries, wages, overtime and holiday pay reflect the direct compensation paid to personnel and are allowable for that reason. Differential pay reflects the difference in pay for different work hours and is paid directly to personnel and is allowable for that reason. On-call pay is paid directly to personnel for time spent on boating safety and enforcement activities and is allowable. Workers compensation premiums are costs incurred by the participating agency directly as a result of employment and are considered allowable. Retirement contributions are paid by the participating agency on behalf of an employee and are allowable under the program. Uniform allowances are direct reimbursements to employees for wearing identifiable clothing so that boaters and the public know that such personnel have the authority to perform boating safety and enforcement activities. The cost of these uniforms is allowable under the program. Insurance, such as health and disability insurance, paid on behalf of an employee is a direct cost to the participating agency and is allowable. Payments made under the Federal Insurance Contributions Act (FICA) are directly related to an employee and are allowed. Any other benefit included in the participating agency's local bargaining agreement that is approved by the Department is allowable.

Subsection (a)(1) specifies that the personnel costs considered allowable are not limited to those listed above. Other personnel costs are allowable if the participating agency directly relates the personnel costs to the boating safety and enforcement program to the satisfaction of the Department, and the benefits are included in the participating agency's local bargaining agreement.

Subsection (a)(2) specifies the types of operations, maintenance, and equipment costs allowable under the program. The cost of fuel used in performing boating safety and enforcement activities is included under the program because participating agencies need the ability to patrol the waterways and use fuel in the process. The cost of vessel, vessel trailer, and equipment repair for equipment used in performing boating safety and enforcement activities is allowable under the program because participating agencies need equipment that is operational in order to adequately perform boating safety and enforcement activities. The cost of storing vessels, vessel trailers, and equipment used for boating safety and enforcement activities is included under the program because agencies need a place to store such equipment when not in use and during the off-season. The cost of vehicle mileage for vehicles used to tow vessels is included under the program because agencies need a way to tow vessels between waterways. Hull insurance costs are included in the program so that participating agencies can insure vessel hulls used for boating safety and enforcement activities. The cost of communications equipment to be attached or mounted to a vessel or vehicle is a reasonable expenditure necessary to perform boating safety and enforcement activities. The per diem and other costs associated with non-POST (Commission on Peace Officer Standards and Training) boating safety and enforcement training is included so that participating agencies can cover the costs of training boating safety and enforcement officers. The per diem costs associated with overnight boating safety and enforcement assignments that occur at least 50 miles from the main headquarters are included in the program. The cost of dive gear is included in the program because it is a basic necessity of search and rescue operations that are a part of boating safety and enforcement programs. For a boat patrol office located in a geographically separate location than the main headquarters, utilities, office rental and leases, and office equipment costs are allowable because they are the result of establishing a boating safety and enforcement unit in a different location than the main headquarters and are directly attributable to the program. The prorated cost of vehicle and aircraft leases are included in the program for vehicles and aircraft used for boating safety and enforcement activities. The cost of miscellaneous boating equipment is included in the program for various items required to conduct boating safety and enforcement activities.

Subsection (a)(2) specifies that the operations, maintenance, and equipment costs considered allowable are not limited to those listed above. Other operations, maintenance, and equipment costs are allowable if the participating agency demonstrates that the costs are directly related to boating safety and enforcement activities.

Subsection (a)(3) specifies that administrative costs attributable to the program are allowable provided they do not exceed five percent of total direct program expenditures in order to provide participating agencies with a reasonable level of reimbursement for complying with the administrative requirements of this program. The five percent cap for administrative costs was chosen because five percent is the limit used by the Governor's Office of Criminal Justice Planning (OCJP) for local law enforcement grants.

Subsection (a)(4) specifies that participating agencies must provide written justification and obtain prior written approval from the Department prior to the purchase of certain items. This justification is necessary so that the Department can ensure that purchases and expenditures fall within the scope of the program. Purchase of communications equipment requires justification and prior Department approval because the Department wants to ensure that the equipment is to be used exclusively for the boating safety and enforcement program. The rental or leasing of office space needs prior approval so that the Department can verify that the rental space is only to be used by the participating agency's boating safety and enforcement program. Such space needs to be geographically separate from the main headquarters, as noted in subsection (a)(2). The cost of any non-POST training course that an employee plans to attend requires approval because the Department wants to ensure that the training covers boating safety and enforcement activities. Leased vehicles and aircraft require written justification and prior Department approval because the Department wants to ensure that the prorated share of such vehicles and aircraft are used for boating safety and enforcement activities and not other law enforcement activities. Out-of-state travel requires written justification and prior Department approval because the Department wants to ensure that such travel is solely related to the participating agency's boating safety and enforcement program.

Subsection (b) specifies what the Department considers non-allowable costs under the program. Subsection (b)(1) specifies that any cost, either in its entirety or a prorated share, not associated with a participating agencies' boating safety and enforcement program, is not allowable under this program. This means that if a cost is only partially related to boating safety and enforcement activities, only that prorated share of the cost is allowable under the program. This section is consistent with the original intent of AB 1827 to provide State financial aid to participating agencies that incurred costs performing boating safety and enforcement activities that exceeded the local revenues for such activities.

Subsection (b)(2) specifies that the purchase of any type of vessel, vessel trailer, vehicle, or aircraft with State funds is not allowable under this program. This is because the Department would have to take ownership of such vessels, vessel trailers, vehicles, or aircraft and this does not fall within the scope of the program. Subsection (b)(2) informs participating agencies that the Department administers a separate grant program for the purchase of vessels. Participating agencies wishing financial assistance with the purchase of vessels and vessel trailers should utilize this other program.

Subsection (b)(2) also specifies that participating agencies may use vessel taxes received by the county to purchase vessels, vessel trailers, vehicles, or aircraft provided that the equipment is used for boating safety and enforcement activities. If the equipment is solely dedicated to boating safety and enforcement activities, all of the purchase may be made with vessel taxes received by the county. If the equipment is shared with other programs, only the prorated share of the purchase may be made with vessel taxes received by the county.

Subsection (b)(3) specifies that the general law enforcement costs of employing, outfitting with weapons, and training personnel in accordance with prescribed statutes affecting peace officers are not allowable under the program. Subsection (b)(3) also specifies that such items include, but are 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. These costs are not allowable under the program because they are general costs of outfitting a peace officer and not directly related to boating safety and enforcement activities.

Subsection (b)(4) specifies that a one-time payment for vacation, sick leave, or compensation time off in lieu of overtime pay at the time of separation for any reason, including retirement or medical causes, is not allowable under the program. These costs are not specific to performing boating safety and enforcement activities.

Subsection (b)(5) specifies that administrative and overhead costs that exceed five percent of the direct program costs are not allowable under the program. Administrative and overhead costs that exceed five percent of overall program costs are considered excessive. Five percent was chosen because that is the limit on administrative costs currently imposed by OCJP for local law enforcement grants.

Section 6593.10. “Reimbursement Procedures”

Specific Purpose: This section outlines the reimbursement procedures used by the Department to provide State financial aid to eligible agencies participating in the boating safety and enforcement program.

Rationale for Necessity: This section is necessary to inform participating agencies what procedures are required in order to obtain reimbursement, and to outline the Department’s responsibilities related to such reimbursements.

This section specifies that the following procedures be used to reimburse participating agencies under the program. This section clarifies that a participating agency may receive State financial only when actual allowable expenditures exceed actual prior year vessel taxes received by the county. These provisions are consistent with the intent of H&N Code Section 663.7 to provide State financial aid when the cost of a participating agency’ boating safety and enforcement program exceeds the local revenues collected to support such program.

Subsection (a) specifies that reimbursements are made to cover the costs incurred by a participating agency for boating safety and enforcement activities that exceed vessel taxes received by the county, up to the eligibility allocation amount. Participating agencies receive reimbursement up to the agency’s State financial eligibility allocation amount because the program is financially limited with a fixed annual budgeted appropriation. It is the responsibility of the participating agency to cover any expenditure that exceeds their State financial eligibility allocation, but the participating agency may receive an increase in the allocation amount in a subsequent fiscal year in accordance with Section 6593.8 of these regulations.

Subsection (b) specifies that participating agencies must submit a claim for reimbursement. The claim provides the Department the documentation necessary to determine the amount of reimbursement due a participating agency. Subsection (b) specifies that participating agencies must submit claims monthly or quarterly in accordance with the terms of their contract with the Department. Providing an option for either monthly or quarterly reimbursement allows each individual participating agency to choose whether they want more timely reimbursement (monthly reimbursement) or less paperwork (quarterly reimbursement). Participating agencies at the Stakeholder Workshop indicated that they were having difficulty managing expenditures under the program because they often did not know whether an expense was approved until after the fiscal year. Providing participating agencies the option of submitting monthly claims will allow them to have more recent expenditure approval information. Subsection (b) also specifies that participating agencies must include actual costs incurred during the month or the quarter and total year-to-date actual costs. The claim provides the Department with information necessary to determine the reimbursement amount due to the participating agency. Subsection (b) specifies that participating agencies must submit claims irrespective of whether they are receiving State financial aid in that month or quarter. By reviewing claims on a monthly or quarterly basis, the Department can monitor and manage each participating agency and review each claim for compliance with allowable and non-allowable costs as specified in Section 6593.9.

Subsection (c) specifies that personnel costs are determined based on the actual number of hours spent on boating safety and enforcement activities. Subsection (c) clarifies that the number of actual hours for each boating safety and enforcement officer is multiplied by that officer’s hourly wage to determine direct salary costs. This procedure provides the Department with the information necessary to review the claim for compliance with allowable and non-allowable costs. Subsection (c) also specifies that total direct salary costs of all boating safety and enforcement officers are multiplied by the agency’s customary average fringe benefit percentage to determine fringe benefit costs. This procedure provides participating agencies a simple method to compute fringe benefit costs that are allowable under the program, and provides the Department with a record to demonstrate the computation of personnel costs.

Subsection (d) specifies that operations, maintenance, and equipment costs are reimbursed based on actual costs. This insures that participating agencies are not marking up the costs of operations, maintenance, and equipment costs.

Subsection (e) specifies that a participating agency may identify administrative costs either directly or indirectly. This provides participating agencies flexibility in determining administrative costs attributable to the boating safety and enforcement program.

Subsection (e)(1) specifies how participating agencies identify administrative personnel costs directly to the boating safety and enforcement program. Subsection (e)(1) clarifies that the number of actual hours spent by administrative personnel on administrative activities related to the boating safety and enforcement program is multiplied by that staff’s hourly wage to determine administrative salary costs. Subsection (e)(1) also specifies that total administrative salary costs of all boating safety and enforcement administrative staff are multiplied by the agency’s customary average fringe benefit percentage to determine fringe benefit costs. This procedure provides participating agencies a simple method to compute fringe benefit costs that are allowable under the program, and provides the Department with a record to demonstrate the computation of administrative personnel costs.

Subsection (e)(2) specifies that a participating agency may use an Indirect Cost Rate Proposal (ICRP) to determine indirect administrative costs attributable to a participating agency's boating safety and enforcement program. The ICRP must be developed in accordance with federal guidelines outlined in the federal Office of Management and Budget Circular A-87. This is the same formal allocation methodology used by OCJP to compute administrative costs for local law enforcement grants. Subsection (e)(2) also specifies that the A-87 publication is available from the Department for participating agencies unfamiliar with the ICRP development process.

Subsection (f) specifies that year-to-date allowable costs are offset by annual actual prior year vessel taxes received by the county and year-to-date State financial aid reimbursements to compute the amount of State financial aid due a participating agency for the month or quarter. This requires agencies to expend an amount equal to 100 percent of the vessel taxes received by the county. This is consistent with the program objective of providing State financial aid to agencies that incurred boating safety and enforcement costs that exceed local revenues.

Subsection (f) clarifies that if participating agencies actual prior year vessel taxes received by the county have not been spent on boating safety and enforcement activities, the agency would not receive State financial aid during that month or quarter. This is necessary for the Department to ensure that agencies expend an amount equal to 100 percent of the vessel taxes received by the county prior to providing the agency with State financial aid.

Subsection (g) specifies that the Department shall conduct a review of each claim for accuracy, completeness, and applicability to the program. This review ensures that the expenditures on the claim are allowable in accordance with Section 6593.9 of these regulations. The Department reviews the calculations for accuracy, checks for completeness by making sure all required information is contained on the forms, and makes a determination as to its applicability to boating safety and enforcement activities.

Subsection (g) specifies that the Department may request additional information to support the claim. This section specifies the authority the Department has to ensure that the costs on the claim comply with Section 6593.9 of these regulations.

Subsection (g) specifies that claims resulting in reimbursement will be forwarded to the State Controller's Office for payment once the Department has completed the review and approved the claim. This provision clarifies to participating agencies the reimbursement process once claims are approved.

Subsection (h) specifies that a participating agency may submit expenditures omitted from a claim on any succeeding claim within the current fiscal year. This provision for submission of omitted expenditures allows participating agencies the ability to include inadvertently omitted expenditures on a subsequent claim, as long as the claim is submitted within 60 days following the last day of the current fiscal year. The authority to specify a time period is consistent with H&N Code Section 663.7(f) that requires participating agencies to submit expenditure information to the Department no later than 60 days after the end of the fiscal year.

Subsection (h)(1) clarifies for participating agencies the dates of expenditures for purposes of reimbursement. This provision serves to define the appropriate date to which an expenditure is assigned.

Subsection (h)(2) specifies that if utility costs overlap fiscal years, the agency has the option to choose which fiscal year to claim reimbursement. This provides some latitude to participating agencies when they have such expenditures.

Subsection (i) specifies that claims must be submitted within 60 days after the last day of the claim period. The specification of this time period is necessary to provide participating agencies with some guidance as to when claims are due. The authority to specify a time period is consistent with H&N Code Section 663.7(f) that requires participating agencies to submit expenditure information to the Department no later than 60 days after the end of the fiscal year.

Subsection (i) also specifies the penalties to participating agencies if they do not submit a claim within 60 days following the last day of the claim period. The Department may penalize a participating agency five percent of their State financial aid allocation amount if they fail to submit their claim within the 60-day claim period. This penalty is assessed for each subsequent 30-day period in which a participating agency is late. The penalties are necessary to promote promptness in the filing of claims. Five percent was chosen because it still allows a participating agency to maintain a manageable program.

<u>Section 6595.11. “Audits and Appeals”</u>

Specific Purpose: Section 6595.11 describes the Department’s audit program and the appeal process available to participating agencies that disagree with the audits.

Rationale for Necessity: This section is necessary to protect the integrity of the use of State funds and give participating agencies due process when disputes arise during the audit process.

This section is necessary so that the Department may maintain audit controls to ensure the responsible use of State funds. This section specifies that the Department will conduct audits to determine whether: (1) a participating agency is in compliance with the relevant laws and regulations governing this program; (2) the claims submitted by a participating agency accurately adhere to the relevant laws and regulations and, as a result, the participating agency was reimbursed the appropriate amount of State financial aid; and (3) funds have been spent in accordance with the relevant laws and regulations. This provision is necessary to provide the Department the authority to conduct audits.

Subsection (a) specifies that the Department will provide at least a one-week notice to participating agencies prior to conducting an audit. The Department has determined this time period is necessary to give participating agencies sufficient time to prepare for the audit.

Subsection (b) specifies that participating agencies are required to make specified records available for review by the Department during the audit and that participating agencies must keep such records for a minimum of five years. This section is necessary to inform participating agencies of the length of time they should keep records. The Department has determined that five years is a reasonable period of time that would not create an undue burden on participating agencies for storing records.

Subsection (b) specifies as to what records participating agencies must keep, which includes supporting documentation for any reimbursement claims. This provision is necessary to provide participating agencies with an understanding of what records they are expected to maintain in order for the Department to conduct an audit.

Subsection (c) specifies that the audit also includes an evaluation of accounting and control systems. This provision is necessary for the Department to determine the adequacy of a participating agency's accounting and control systems.

Subsection (d) specifies that, when the Department conducts an audit, it will issue an audit report to the participating agency, and what items the audit report will include. This provision is necessary to inform participating agencies what to expect as a result of the audit and Departmental guidelines to be used in preparing audit reports. Subsection (d) specifies that a correction plan is part of the audit report to guide agencies in correcting deficiencies and come into compliance with the program. Subsection (d) also specifies that the Department has the authority to withhold future payments until audit exceptions or management improvement recommendations have been resolved. This authority is necessary to provide the Department with the legal and financial leverage to achieve participating agency compliance with the legal and regulatory requirements of the program.

Subsection (e) specifies the penalties for claiming and receiving reimbursement for which participating agencies are not entitled under the laws and regulations of the program. This provision provides the Department with authority to exercise the necessary legal and financial leverage to enforce compliance with legal and regulatory requirements by means of financial penalties. The financial penalties are modeled on Welfare and Institutions Code Section 14171.6 for Medi-Cal reimbursement. The monthly average rate received on State Surplus Money Investment Fund reflects the interest rate that would have been earned on funds in the Harbors and Watercraft Revolving Fund.

Subsection (e) specifies that the financial penalties may be levied through reductions in future payments. This is necessary to provide the Department with a process for collecting financial penalties.

Subsection (f) specifies the penalties for committing fraud through the reimbursement process. This provision is necessary because it specifies the Department has the authority to exercise the necessary legal and financial leverage to enforce compliance with legal and regulatory requirements by means of financial penalties. The financial penalties are modeled on Welfare and Institutions Code Section 14171.6 for Medi-Cal reimbursement. Subsection (f) reflects higher financial penalties that subsection (e) because of the more serious nature of fraudulent acts.

Subsection (f) specifies that the financial penalties may be levied through reductions in future payments. This provision is necessary to provide the Department with a process for collecting financial penalties.

Subsection (g) specifies the appeal process for audit issues contested by participating agencies. This provision is necessary to ensure participating agencies due process. The Department has determined that ninety days provides participating agencies adequate time to develop a response in writing. The Department shall first attempt to resolve the appeal through a conference between the participating agency and the Department. If the appeal is not resolved, participating agencies have the right to request a formal hearing conducted in accordance with the Administrative Procedures Act (Government Code Section 11500 et seq.).

ATTACHMENT A

Calculation of Associated Operations, Maintenance, and Equipment Coefficients
Boating Safety and Enforcement Financial Aid Program

Participating Agency	Actual Costs													Baseline SFEA [c]
	FY 1997/98				FY 1998/99				FY 1999/00				Three Year Average	
	Personnel	O, M & E [a]	Total	Percent [b]	Personnel	O, M & E [a]	Total	Percent [b]	Personnel	O, M & E [a]	Total	Percent [b]		
1. Amador County	$48,120	$34,927	$83,047	73%	$53,868	$46,894	$100,762	87%	$30,503	$35,505	$66,008	116%	92%	$95,781
2. Calaveras County	151,120	23,459	174,579	16%	168,329	5,478	173,807	3%	150,762	25,019	175,781	17%	12%	159,868
3. Colusa County	71,559	27,279	98,838	38%	66,076	31,088	97,164	47%	74,561	26,536	101,097	36%	40%	96,091
4. Contra Costa County	523,024	89,703	612,727	17%	562,903	87,914	650,817	16%	584,100	64,905	649,005	11%	15%	379,713
5. Del Norte County	80,173	13,325	93,498	17%	94,505	19,192	113,697	20%	90,842	30,657	121,499	34%	24%	130,775
6. El Dorado County	289,142	123,085	412,227	43%	289,489	66,294	355,783	23%	290,053	55,685	345,738	19%	28%	261,766
7. Fresno County	311,723	51,711	363,434	17%	343,111	39,979	383,090	12%	350,456	53,885	404,341	15%	15%	356,210
8. Glenn County	94,925	10,048	104,973	11%	97,418	9,012	106,430	9%	77,119	17,252	94,371	22%	14%	108,111
9. Humboldt County	93,530	35,501	129,031	38%	107,740	29,651	137,391	28%	114,543	17,670	132,213	15%	27%	110,313
10. Imperial County	140,215	68,668	208,883	49%	204,283	99,655	303,938	49%	158,464	57,592	216,056	36%	45%	223,536
11. Kings County		0			33,796	6,432	40,228	19%	51,556	16,451	68,007	32%	25%	67,428
12. Lake County	191,906	60,310	252,216	31%	187,942	75,876	263,818	40%	175,702	97,766	273,468	56%	42%	271,380
13. Lassen County	65,446	30,032	95,478	46%	74,798	19,613	94,411	26%	75,988	10,779	86,767	14%	29%	91,912
14. Los Angeles County		0			4,359,967	356,645	4,716,612	8%	4,884,616	399,749	5,284,365	8%	8%	1,500,000
15. Mariposa County	163,866	56,125	219,991	34%	171,106	60,748	231,854	36%	181,993	50,978	232,971	28%	33%	213,873
16. Mono County	77,209	27,960	105,169	36%	80,912	24,491	105,403	30%	87,558	18,039	105,597	21%	29%	101,444
17. Napa County	246,707	62,003	308,710	25%	245,821	20,825	266,646	8%	239,771	30,100	269,871	13%	15%	246,087
18. Nevada County	40,164	24,195	64,359	60%	32,034	21,665	53,699	68%	59,328	31,400	90,728	53%	60%	83,243
19. Placer County	87,674	59,506	147,180	68%	94,689	49,280	143,969	52%	109,163	45,241	154,404	41%	54%	52,916
20. Plumas County	84,005	37,148	121,153	44%	100,116	19,358	119,474	19%	104,105	14,198	118,303	14%	26%	118,687
21. Sacramento County	614,528	70,110	684,638	11%	687,307	58,659	745,966	9%	634,791	87,960	722,751	14%	11%	370,000
22. San Bernardino County		0			293,829	96,918	390,747	33%	279,195	54,059	333,254	19%	26%	190,000
23. San Joaquin County	532,429	78,925	611,354	15%	554,737	92,738	647,475	17%	574,181	101,554	675,735	18%	16%	376,279
24. Shasta County	486,278	213,684	699,962	44%	450,250	147,768	598,018	33%	399,677	147,331	547,008	37%	38%	523,567
25. Sierra County	20,981	4,233	25,214	20%	28,451	6,602	35,053	23%	25,306	14,442	39,748	57%	33%	57,088
26. Siskiou County	68,980	13,498	82,478	20%	74,617	24,029	98,646	32%	71,482	11,214	82,696	16%	22%	71,489
27. Solano County	287,865	22,349	310,214	8%	252,122	40,943	293,065	16%	229,399	51,820	281,219	23%	16%	193,103
28. Sonoma County	254,165	32,805	286,970	13%	288,370	55,154	343,524	19%	292,804	63,177	355,981	22%	18%	263,226
29. So. Lake Tahoe City	33,614	31,176	64,790	93%	40,204	16,426	56,630	41%	46,705	16,904	63,609	36%	57%	47,713
30. Suisun City	22,590	3,889	26,479	17%	33,401	9,921	43,322	30%	37,362	6,200	43,562	17%	21%	39,341
31. Sutter County	139,511	31,631	171,142	23%	135,844	30,612	166,456	23%	141,476	33,629	175,105	24%	23%	167,584
32. Tehama County	94,551	12,117	106,668	13%	114,430	17,593	132,023	15%	105,660	23,868	129,528	23%	17%	120,000
33. Trinity County	85,886	26,715	112,601	31%	66,745	43,134	109,879	65%	66,193	28,929	95,122	44%	46%	106,714
34. Tulare County	121,228	38,800	160,028	32%	157,179	37,840	195,019	24%	175,280	39,692	214,972	23%	26%	174,132
35. Tuolumne County	229,910	52,174	282,084	23%	218,419	52,286	270,705	24%	161,820	112,338	274,158	69%	39%	215,880
36. Yolo County	194,337	40,268	234,605	21%	197,505	34,189	231,694	17%	172,941	30,607	203,548	18%	19%	225,776
37. Yuba County	121,276	25,425	146,701	21%	122,440	15,010	137,450	12%	112,459	28,762	141,221	26%	20%	140,905
Total	$6,068,637	$1,532,784	$7,601,421		$11,084,753	$1,869,911	$12,954,664		$11,417,914	$1,951,891	$13,369,805			$7,951,931
Unweighted Average				**31.3%**				**27.9%**				**29.3%**	**29.2%**	

(a) Operations, maintenance, and equipment costs.
(b) Operations, maintenance, and equipment costs as a percent of personnel costs.
(c) State Financial Eligibility Allocation.

1/22/02