



**RBOC**  
Protecting your boating interests.™

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## Issue Overview March 25, 2015

### Key Boating Facts

- There are approximately 800,000 recreational boats in California, and about 2.4 million recreational boat operators.
- The state’s recreational boaters pay tens of millions of dollars annually in fuel tax dollars and registration fees that support the Division of Boating and Waterways, State Parks, the Department of Food and Agriculture, local boating law enforcement, and boating infrastructure by government and the private sector.
- The total annual economic impact of recreational boating in California is over \$8.5 Billion\*
- There are over 3,000 recreational boating industry businesses in the state, supporting over 70,000 jobs\*

*\*Source: National Marine Manufacturers Association, in conjunction with the Recreational Marine Research Center at Michigan State University*

### Who We Are - RBOC

RBOC is the nonprofit governmental advocacy organization that works to protect and enhance the interests of the state’s recreational boaters before the legislative and executive branches of state and local government.

RBOC is in its 47th year as a statewide organization, and since 1968 it has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

RBOC is a nonprofit public benefit corporation that works to:

- Promote the recreational use and development of the waterways of the State of California;
- Support before government the enactment of statutes, regulations and policies to promote and enhance the interests of the recreational boaters of California;
- Promote cooperative action in advancing the common interests of the recreational boaters of California before government; and
- Provide a forum for the identification and discussion of issues of concern which are common to the recreational boaters of California.

### Vessel Operator Certification

RBOC is working with the Division of Boating and Waterways as it implements a new requirement that operators of boats powered by engines pass a state-approved course and obtain a certificate. The Division is identifying individuals to be named to an advisory committee to establish the fees to be charged for the certificates.

The requirement will begin to phase in over a seven-year period starting in 2018.

RBOC supported the legislation, SB 941 [Monning-DeSaulnier, Chapter 433, Statutes of 2014].

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Vice President – South

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## Personal Flotation Devices [PFDs]

RBOC is discussing AB 638 [Frazier] with the author. The bill would revise the laws that require children under 13 to wear a personal flotation device [PFD].

As planned for amendment by the author, AB 638 would expand the requirement for children under 13 to wear a PFD to boats over 26 feet, rather than just boats 26 feet and under.

The requirement to wear a PFD would continue to apply while the vessel is underway, unless the child is either restrained by a harness tethered to the vessel, or is in an enclosed cabin.

## Marine Debris

RBOC is supporting AB 1323 [Frazier] that would expedite the ability of agencies to remove marine debris from waterways.

The bill would define marine debris as a vessel or part of a vessel that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of transportation by water.

The bill would authorize marine debris in a state waterway, on a public beach or on state tide and submerged lands to be posted for removal by a state, county, city or other local entity with jurisdiction over the area and removed after 30 days. If an owner can reasonably be determined, a written notice by mail would also be required. Removal could be done immediately if it is a public nuisance or a hazard to health, safety or the environment.

## Non-Native Aquatic Species

“Non-native aquatic species – plants, fish and animals—are invading California’s coastal and inland waters. These pests can increase dramatically under the right conditions, displacing native species, clogging waterways, and impacting navigation and recreation. Once introduced, they are nearly impossible to eliminate.

“Hydrilla, Egeria densa, Water Hyacinth, Asian Kelp, and Quagga and Zebra mussels are some of the nuisance species that can be accidentally transported by recreational boaters when caught in propellers or intakes or attached to hulls. Controlling these aquatic invasive species is a multi-million dollar problem in California.” *Source – Division of Boating and Waterways, California Department of Parks and Recreation.*

- RBOC is supporting the dedicated efforts of the Division of Boating and Waterways to identify and commit the necessary resources to combat non-native aquatic species, and to develop and implement long-term strategies that can be more effective than past efforts.
- RBOC is supporting the plans of the Governor’s administration to dedicate additional resources within the state budget to these efforts. While \$4 million in boater-generated funds have been identified, it is important that other stakeholders and beneficiaries contribute financially in these efforts.
- RBOC is supporting SB 223 [Galgiani] which would require the Division of Boating and Waterways, by January 1, 2017, to establish an advisory and oversight committee to monitor the activities of the division relating to the management and control or eradication of invasive aquatic plants in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun Marsh.

## Barriers to Navigation

It is the policy of RBOC to advocate to protect the rights of recreational boaters to assure access for continued navigation by recreational boats on the waters of the Delta wherever any control structure (such as, but not limited to gates or barriers whether temporary or permanent) is planned for placement across a navigable Delta waterway.



In these instances, RBOC seeks assurances that as any changes are contemplated which further alter Delta navigable waterways that alternatives are identified and implemented to the satisfaction of RBOC that will best preserve and sustain recreational boat passage at each location.

Consistent with this policy, RBOC seeks to have operable boat locks installed as an integral design component to mitigate for the placement of any control structure across any navigable Delta waterway. All control structures and boat locks or other alternatives satisfactory to RBOC for recreational boat passage are to be installed, maintained and operated without cost or expense to recreational boaters.

- **Emergency Drought Barriers [EDB] Project** - RBOC appreciates and understands the critical need to protect water quality and water supply in the Delta. As the state and federal governments identify and take actions in order to accomplish this objective, there must be an open and transparent process, clear science-based criteria for actions that are taken, the engagement and participation of stakeholders and beneficiaries, and the protection of the environment and endangered species.
- **Bay Delta Conservation Plan [BDCP]** – RBOC is discussing SB 772 [Stone] with the author. The bill would enact legislation establishing judicial review procedures for the BDCP.
  - **With regard to the BDCP itself**, it is evident to RBOC that implementation of the proposed actions and measures set forth in the plan and EIR/EIS will result in major short-term and long-term alternations and impacts to existing Delta waterways utilized by all types and sizes of recreational boats.
  - Depending upon which actions and measures are implemented, there will be adverse impacts that constrain and in many instances even prohibit recreational boaters accessing and utilizing existing Delta waterways.
  - This includes not only adverse impacts during the estimated decade-long construction period but thereafter as well depending upon which action measures and/or alternatives or segments of any are implemented at any time.
  - The plan in many ways results in irreversible changes to the Delta itself as well as to access and enjoyment of Delta waterways relevant to recreational boating and marinas and boat ramps visited by boaters and the general public. Unless fully mitigated, the actions by BDCP and EIR/EIS to modify any Delta waterway is opposed by RBOC.
- **Research** – RBOC is discussing AB 501 [Levine] with the author. The bill would require a person conducting Delta research, whose research is funded, in whole or in part, by the state, to take enumerated actions with regard to the sharing of the primary data, samples, physical collections, and other supporting materials created or gathered in the course of that research.

## Copper-Based Anti-fouling Surfaces

RBOC advocates that the decisions aimed at diminishing the presence of copper in impaired water bodies be based on sound science. Decisions that restrict or prohibit the use of copper-based anti-fouling paints on the hulls of recreational boats should be predicated upon findings that alternatives are available, affordable and effective.

- **Biotic Ligand Model** – RBOC urges that the USEPA Office of Water complete its review of the Copper Marine Biotic Ligand Model [BLM] for metals in salt water.
  - This issue is important to boaters as it impacts decisions made by the state and regional water quality control boards that address copper including the copper-based anti-fouling paints used on boat hulls in salt water.
  - When adopted by USEPA, this water quality criteria document will be available for use in California and will allow for more accurate marine and estuarine water quality criteria to be developed to protect the environment and to create more scientifically defensible regulatory actions rather than the arbitrary one size-fits all number that is currently used.
  - This BLM uses the latest science to calculate water quality criteria for copper on the basis of water quality conditions at a specific water body/site. The water chemistry is measured at that site and put



into the model to calculate protective water quality criteria for that specific site. This is widely recognized as a scientifically proven method.

- Adoption of the action by the USEPA will help all parties involved establish protective and accurate water quality criteria.
- **Regional Water Boards** –actions by board should include the assurances place in the decision of State Water Board in approving the Water Quality Control Plan for the Los Angeles Region, to revise a Total Maximum Daily Load [TMDL] for toxic pollutants in Marina del Rey Harbor:
  - The assignment of pollutant allocations in a TMDL does not, in itself, impose any liability or other legal obligations on those named.
  - No cause of action exists under the Clean Water Act that would enable third-party lawsuits based on the TMDL against the County of Los Angeles, boat owners or anchorages for discharges of copper from boat hulls.
  - Future regulatory actions for dissolved copper load allocations would establish regulatory requirements to address impacts to the water column – not requirements for remediation of contaminated sediment from historical discharges.
  - As a result, the dissolved copper load allocations assigned to the anchorages, individual boat owners, and the County of Los Angeles are not comparable to environmental liabilities established under CERCLA.
  - The Los Angeles Water Board will consider revisions to the existing dissolved copper water quality objectives and corresponding TMDL numeric targets that are developed using the biotic ligand model [BLM] if it is fully approved by the U.S. EPA for use in marine waters.
  - Following the County of Los Angeles’ submittal of the dissolved copper site-specific objective study for the marina, the Los Angeles Water Board will consider site-specific objectives for Marina del Rey Harbor that, if adopted by the Los Angeles Water Board, and approved by the State Water Board, Office of Administrative Law and U.S. EPA, will supersede the applicable dissolved copper criterion in 40 C.F.R. section 131.38 [“California Toxics Rule”] as the enforceable water quality standard.
  - Directs the Los Angeles Water Board to review progress on TMDL implementation at regular intervals.

## Renewable Fuel Standard – Federal Legislation

RBOC is working together with the respected national boater advocacy organization BoatUS in support of S. 577, the "**Corn Ethanol Mandate Elimination Act of 2015**" which has recently been introduced by Senators Diane Feinstein and Pat Toomey.

For years, BoatUS has been battling in Washington to make sure boaters can buy gasoline that works properly in their boat engines. And while BoatUS has long recognized that renewable fuels are a key part of America's energy mix, it continues to work to reform the government fuel mandate that forces higher levels of ethanol in gas; levels beyond 10%, which can void boat engine warranties.

## Boating Under the Influence

RBOC is discussing AB 539 [Levine] with the author. This bill would authorize law enforcement to obtain a search warrant to test the blood of a person suspected of operating a marine vessel while under the influence of drugs and/or alcohol. This would apply if the boat operator has refused to submit to a blood test.

The bill follows SB 717 [DeSaulnier] that was enacted into law in 2013 to permit law enforcement to obtain a search warrant for a blood test of a motorist believed to be under the influence. This was in response to the 2013 U.S. Supreme Court ruling that law enforcement needed to seek and obtain a search warrant when taking a blood sample from a person suspected of being under the influence of drugs or alcohol, unless exigent circumstances are present. Exigent circumstances are those in which there is an emergency and waiting for a warrant could cause harm.



## SAMPLE LETTER TO USEPA REGARDING BIO LIGAND MODEL

Dr. Elizabeth Behl, Director  
Health & Ecological Criteria, Division Office of Water  
Mail code: 4301M  
US Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Director Behl –

I urge that the USEPA Office of Water complete its review of the Copper Marine Biotic Ligand Model [BLM] for metals in salt water.

This issue is important to boaters as it impacts decisions made by the state and regional water quality control boards that address copper including the copper-based anti-fouling paints used on boat hulls in salt water.

When adopted by USEPA, this water quality criteria document will be available for use in California and will allow for more accurate marine and estuarine water quality criteria to be developed to protect the environment and to create more scientifically defensible regulatory actions rather than the arbitrary one-size-fits all number that is currently used.

This BLM uses the latest science to calculate water quality criteria for copper on the basis of water quality conditions at a specific water body/site. The water chemistry is measured at that site and put into the model to calculate protective water quality criteria for that specific site. This is widely recognized as a scientifically proven method.

Adoption of the action by the USEPA will help all parties involved establish protective and accurate water quality criteria.

Thank you for your consideration of this matter.