

**ADOPTED REGULATION OF THE
BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R020-08

Effective June 17, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 2 and 6, NRS 488.045 and 501.181; §§3 and 4, NRS 488.045, 488.059, 501.181 and 501.243; §5, NRS 488.045, 501.181 and 501.243.

A REGULATION relating to vessels; expanding the list of acts that constitute reckless or negligent operation of a vessel; revising the standards for safe loading capacity of a vessel; increasing certain reimbursement amounts paid to the Department of Wildlife; revising the list of waters on which vessels with electric motors are permitted; and providing other matters properly relating thereto.

Section 1. Chapter 488 of NAC is hereby amended by adding thereto a new section to read as follows:

For the purposes of NRS 488.065, the Department shall interpret the term “undocumented motorboat” to mean a vessel which does not have a marine document issued by the United States Coast Guard.

Sec. 2. NAC 488.435 is hereby amended to read as follows:

488.435 Each of the following acts endangers life, limb or property and constitutes prima facie evidence of reckless or negligent operation of a vessel:

1. ~~[Riding on the bow, gunwale or transom of]~~ *On* a motorboat underway at a speed greater than 5 nautical miles per hour, ~~[unless the act is done by a vessel's crewmen in managing a sail.]~~
riding on the:

(a) Bow;

(b) Gunwale;

(c) Transom;

(d) Outboard engine cover; or

(e) Inboard engine cover unless the person's feet are touching the deck.

2. Maneuvering a towed skier or device so as to pass the towline over another vessel or its skier.

3. Navigating any vessel, skis or device between a towing vessel and its tow.

4. Operating a motorboat while any person is hanging onto, or sitting, standing or riding on, a swim platform or a swim ladder that is attached to the motorboat.

5. Operating a motorboat at a speed greater than a speed that leaves a flat wake within 100 feet of an anchored or moored vessel, a person engaged in angling from another vessel or any manually propelled vessel.

Sec. 3. NAC 488.450 is hereby amended to read as follows:

488.450 1. Waterskiing is authorized on:

(a) The Eagle Valley Reservoir between the hours of 10 a.m. and 3 p.m.

(b) Comins Lake between 11 a.m. and sunset. A vessel may not be operated at a speed in excess of 5 nautical miles per hour during other hours. The speed of a vessel underway is considered to be 5 nautical miles per hour or less if the vessel is not leaving a wake.

2. Waterskiing is prohibited on the following waters:

<u>Waters</u>	<u>County</u>
(a) Crittenden Reservoir	Elko
(b) Jiggs Reservoir.....	Elko

- (c) Black Canyon (Any area marked with signs or buoys, or both, in Lake Mead and downstream from Hoover Dam to Mile Marker 43 on Lake Mohave) Clark
- (d) Boulder Canyon-Lake Mead (Any area marked with signs or buoys, or both) Clark
- (e) Lagoon, south of Laughlin, within sec. 33, T. 32 S., R. 66 E., M.D.B. & M., as marked with signs or buoys, or both Clark

3. A person being towed on skis, an inflatable device ~~or~~ or any similar device shall wear a personal flotation device which is approved by the United States Coast Guard.

4. A person shall not operate a vessel on any waters of this State towing a person *or persons* on water skis, a surfboard, an inflatable device or any similar device ~~unless~~ *if* the manufacturer's recommended safe loading capacity for the vessel ~~is three or more persons.~~ *would be exceeded if the person or persons being towed had to board the vessel as a passenger.*

Sec. 4. NAC 488.470 is hereby amended to read as follows:

488.470 1. Only vessels without motors are permitted on the following waters:

<u>Waters</u>	<u>County</u>
(a) Angel Lake.....	Elko
(b) Blue Lakes	Humboldt
(c) Schroeder Reservoir	Lincoln
(d) Spooner Lake	Douglas
(e) Marlette Lake.....	Washoe

2. Except as otherwise provided in subsection 3, only vessels without motors and vessels which are powered by electric motors are permitted on the following waters:

<u>Waters</u>	<u>County</u>
(a) Groves Lake	Lander
(b) Sparks Marina Park.....	Washoe
(c) The lagoon south of Laughlin within section 33, T. 32 S., R. 66 E., M.D.B. & M., as marked with signs or buoys, or both.....	Clark
<i>(d) Spooner Lake.....</i>	<i>Douglas</i>

3. The provisions of paragraph (b) of subsection 2 do not apply to a vessel that is:

(a) Owned, operated and used for official purposes by the City of Sparks, Washoe County or the State of Nevada; or

(b) Operating pursuant to a permit for a marine event that is requested by the City of Sparks and issued pursuant to NRS 488.305 and NAC 488.490 to 488.510, inclusive.

Sec. 5. NAC 488.492 is hereby amended to read as follows:

488.492 1. The Department shall not approve a marine event if the Director *of the Department* determines that providing the personnel and resources of the Department ~~that~~ *which* would be necessary to ensure that the marine event is conducted safely will impair the ability of the Department to perform its other duties.

2. The Director may require a person in charge of a marine event to enter into an agreement to reimburse the Department as a condition of approval of the marine event if the Department

reasonably anticipates that at least two protection units will be needed to ensure that the marine event is conducted safely. In determining whether the person in charge of such a marine event must enter into an agreement to reimburse the Department, the Director shall consider:

- (a) The type and nature of the marine event;
- (b) Whether the marine event will substantially increase or disrupt the normal traffic on the water;
- (c) Whether the marine event requires special consideration to be taken to ensure the safety of the spectators; and
- (d) Any other relevant factors that will assist the Department in determining whether the marine event will be conducted safely.

3. The Director shall not require a person in charge of a minor marine event to enter into an agreement to reimburse the Department as a condition of approval of the marine event if the Department reasonably anticipates that:

- (a) There will be small crowds of spectators attending the marine event; and
- (b) Not more than one protection unit will be needed to ensure that the marine event is conducted safely.

4. The amount for which a person in charge of a marine event must agree to reimburse the Department must be estimated based on the following:

- (a) For each officer or employee of the Department to work at the marine event:
 - (1) At the hourly rate for the officer or employee at his existing pay grade;
 - (2) For overtime, at a rate that is equal to one and one-half the hourly rate of the officer or employee; and

(3) A per diem allowance and travel expenses provided for state officers and employees generally while performing official duties of the Department unless the person in charge of the marine event makes the necessary arrangements for the prepayment of meals and lodging for the Department personnel and the amount of the arrangements is equal to or greater than the state rate.

(b) For each vessel, ~~10.25~~ \$70 per hour, plus the cost of the fuel used.

(c) For each vehicle, ~~10.31~~ \$31 per day plus ~~10.315 cents per mile~~ *a rate equal to the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.*

5. An agreement to reimburse the Department must include a provision which states that the person in charge of the marine event agrees that, if the amount of the actual cost incurred by the Department is greater than the amount of the estimated cost set forth in the agreement, the amount which must be reimbursed to the Department will be increased by the amount by which the actual cost exceeds the estimated cost or by an amount equal to 5 percent of the estimated cost, whichever is less.

6. The Director may require, as part of an agreement to reimburse the Department, the person in charge of a marine event to furnish a bond to ensure that reimbursement is made.

7. A person in charge of a marine event who has executed an agreement to reimburse the Department pursuant to this section shall remit a certified check for the appropriate amount to the Department not later than 14 days after the completion of the marine event.

8. The Department shall deposit any money received pursuant to an agreement to reimburse the Department into the Wildlife Account in the State General Fund to be used to offset the costs

incurred by the Department to ensure that the marine event to which the agreement relates was conducted safely.

9. An agreement to reimburse the Department must include a provision pursuant to which the person in charge of a marine event agrees to defend, protect, indemnify and hold harmless the State of Nevada, the Department and its officers, agents and employees from and against any and all claims, losses, suits and actions resulting from the activities of the person in charge of the marine event, its subcontractors, agents or employees under the written agreement and to pay all claims, damages, judgments, legal costs or any other expense or liability related thereto.

10. As used in this section:

(a) “Agreement to reimburse the Department” means an agreement entered into by a person in charge of a marine event with the Department in accordance with NRS 488.305 pursuant to which the person agrees to reimburse the Department for expenses incurred by the Department to ensure that the event is conducted safely.

(b) “Protection unit” means one officer and one patrol vessel or one patrol vehicle, or both a patrol vessel and patrol vehicle.

Sec. 6. NAC 502.110 is hereby repealed.

TEXT OF REPEALED SECTION

502.110 “Undocumented motorboat” defined. (NRS 501.105, 501.181)

“Undocumented motorboat” means a vessel which does not have a marine document issued by the U.S. Coast Guard.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R020-08

The Board of Wildlife Commissioner adopted regulations assigned LCB File No. R020-08 which pertain to chapters 488 and 502 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. Description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife, and other interested persons; presented at a public workshop and at the board of Wildlife Commissioners' public meeting. A summary is available by contacting the Department of Wildlife.

2. The number of persons who:

- (a) Attended each hearing: 21
- (b) Testified at each hearing: 0
- (c) Submitted to the agency written statements: 1

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary: This regulation does not affect businesses. The proposed regulation was noticed and posted on an agenda according to the Open Meeting Law; distributed to the Board of Wildlife Commissioners, 17 county advisory boards to manage wildlife, and other interested persons; presented at a public workshop and at the board of Wildlife Commissioners' public meeting. A summary is available by contacting the Department of Wildlife.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

5. The estimated economic effect of the regulations on the businesses they are to regulate and on the public. Will increase the cost to the sponsors of marine events.

(a) Estimated economic effect on the businesses which they are to regulate.

- (1) Adverse – N/A
- (2) Beneficial – N/A
- (3) Immediate – N/A
- (4) Long term – N/A

(b) Estimated economic effect on the public which they are to regulate.

- (1) Adverse – None
- (2) Beneficial – None
- (3) Immediate – None
- (4) Long term – None

6. The estimated cost to the agency for enforcement of the proposed regulation: Will allow NDOW to recover cost for marine events.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary: N/A

If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency: None

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions: N/A

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used: The agency expects to collect approximately \$25,000 for marine events.