

**PROPOSED REGULATION OF THE BOARD
OF WILDLIFE COMMISSIONERS**

LCB File No. R116-00

October 30, 2000

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

AUTHORITY: §§1 and 3-7, NRS 488.045, 501.181 and 501.243; §§2 and 10, NRS 488.045, 488.305, 501.181 and 501.243; §§8 and 9, NRS 488.045, 488.059, 501.181 and 501.243.

Section 1. Chapter 488 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *The division shall not approve a marine event if the administrator determines that providing the personnel and resources of the division that would be necessary to ensure that the marine event is conducted safely will impair the ability of the division to perform its other duties.*

2. The administrator may require a person in charge of a marine event to enter into an agreement to reimburse the division as a condition of approval of the marine event if the division 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 division, the administrator 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 division in determining whether the marine event will be conducted safely.

3. The administrator shall not require a person in charge of a minor marine event to enter into an agreement to reimburse the division as a condition of approval of the marine event if the division 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 division must be estimated based on the following:

(a) For each officer or employee of the division 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 division unless the person in charge of the marine event makes the necessary arrangements for the prepayment of meals and lodging for the division personnel and the amount of the arrangements is equal to or greater than the state rate.

(b) For each vessel, \$25 per hour.

(c) For each vehicle, \$10 per day plus 0.315 cents per mile.

5. *An agreement to reimburse the division 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 division is greater than the amount of the estimated cost set forth in the agreement, the amount which must be reimbursed to the division 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 administrator may require, as part of an agreement to reimburse the division, 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 division pursuant to this section shall remit a certified check for the appropriate amount to the division not later than 14 days after the completion of the marine event.*

8. *The division shall deposit any money received pursuant to an agreement to reimburse the division into the wildlife account in the state general fund to be used to offset the costs incurred by the division to ensure that the marine event to which the agreement relates was conducted safely.*

9. *An agreement to reimburse the division 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 division 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 division” means an agreement entered into by a person in charge of a marine event with the division in accordance with NRS 488.305 pursuant to which the person agrees to reimburse the division for expenses incurred by the division to ensure that the event is conducted safely.

(b) “Protection unit” means one officer and one patrol vessel.

Sec. 3. *In addition to any other applicable requirements relating to the transfer of a certificate of ownership of a vessel set forth in this chapter and chapter 488 of NRS, to transfer a certificate of ownership of a vessel that is the subject of a lien pursuant to NRS 108.473 to 108.4783, inclusive, relating to the storage of vessels, a transferee of a certificate of ownership of the vessel must provide:*

1. Proof of any lien satisfied from known persons holding a security interest in the vessel, and evidence satisfactory to the division of a valid release of all claims to the vessel from all owners and legal owners of the vessel in the form of a title to the vessel that has been signed over, a notarized affidavit that the title to the vessel was lost or a legal document which indicates that the lien has been discharged or released.

2. If a valid release of a lien is not available because of:

(a) A failure to make a claim after lawful demand and notice or dissolution of a secured party:

(1) A complete and notarized affidavit that states that all requirements contained in NRS 108.473 to 108.4783, inclusive, have been satisfied;

(2) A description of the vessel that includes the boat number and hull identification number, if known;

(3) Evidence, if any, of the status of all claims attached to the vessel; and

*(4) A notarized copy of the affidavit of publication for the sale or auction of the vessel;
and*

(b) A failure to notify all persons holding an interest in the vessel, a notarized affidavit stating that all reasonable attempts were made, including notification to the registered owner, legal owner and any other known person who may have an interest in the vessel and setting forth the reasons why those attempts were unsuccessful. For the purposes of this paragraph, a “reasonable attempt” includes, without limitation, mailing a certified letter to the main office of the successors to the business that originally held the lien and was subsequently relocated or reorganized, if known.

3. A copy of the notice of sale sent by certified mail to the holders of the secured interest in the vessel and if the certified letter was:

(a) Delivered, a copy of the letter and certified return receipt.

(b) Returned undelivered in the envelope, unopened if possible, with a copy of the certified letter and documentation of attempted postal delivery.

4. Evidence of the affidavit of publication that the sale took place at least 22 days after the date of the first advertisement.

5. If the occupant of the storage unit is not the registered or legal owner of the vessel, evidence that separate notices were sent to the registered owner and the legal owner of the vessel and to the occupant of the storage unit.

6. A notarized affidavit attesting that a notice of auction was posted, including the dates when and locations where the notice was posted.

Sec. 4. *In addition to any other applicable requirements relating to the transfer of a certificate of ownership of a vessel set forth in this chapter or chapter 488 of NRS, to transfer*

a certificate of ownership of a vessel that is the subject of a lien pursuant to NRS 108.670 to 108.760, inclusive, relating to vessels, a transferee of a certificate of ownership of the vessel must provide:

1. Proof of any lien satisfied from known persons holding a security interest in the vessel, and evidence satisfactory to the division of a valid release of all claims to the vessel from all owners and legal owners of the vessel in the form of a title to the vessel that has been signed over, a notarized affidavit that the title to the vessel was lost or a legal document which indicates that the lien has been discharged or released.

2. If a valid release is not available because of:

(a) A failure to make a claim after lawful demand and notice or dissolution of a secured party:

(1) A complete and notarized affidavit that states that all requirements contained in NRS 108.670 to 108.760, inclusive, have been satisfied;

(2) A description of the vessel that includes the boat number and hull identification number, if known;

(3) Evidence, if any, of the status of all claims attached to the vessel; and

(4) A notarized copy of the affidavit of publication for the sale or auction of the vessel; and

(b) A failure to notify all persons holding an interest in the vessel, a notarized affidavit stating that all reasonable attempts were made, including notification to the registered owner, legal owner and any other known person who may have an interest in the vessel and setting forth the reasons why those attempts were unsuccessful. For the purposes of this paragraph, a “reasonable attempt” includes, without limitation, mailing a certified letter to the main office

of successors to the business that originally held the lien and was subsequently relocated or reorganized, if known.

3. A copy of the notice of sale sent by certified mail to the holder of the secured interest and if the certified letter was:

(a) Delivered, a copy of the letter and certified return receipt.

(b) Returned undelivered in the envelope, unopened if possible, with a copy of the certified letter and documentation of attempted postal delivery.

4. Evidence of the affidavit of publication for the sale that took place at least 22 days after the date of the first advertisement.

Sec. 5. 1. *The division will not transfer the certificate of ownership of a vessel that is the subject of a lien pursuant to NRS 108.473 to 108.4783, inclusive, or 108.670 to 108.760, inclusive, if the lien claimant has refused to entertain bids at an advertised sale or auction of the vessel.*

2. The division will not transfer the certificate of ownership of a vessel that is the subject of a lien pursuant to NRS 108.473 to 108.4783, inclusive, that was obtained as the result of the sale of a sealed storage unit if the person seeking to transfer the certificate of ownership of the vessel does not have evidence of notification or attempted notification, as appropriate, to the registered owner and legal owners of the vessel.

Sec. 6. NAC 488.145 is hereby amended to read as follows:

488.145 1. The registered owner of a destroyed or abandoned motorboat that is numbered pursuant to chapter 488 of NRS shall provide the notice required by NRS 488.145 to the division in writing. The written notice must be signed by the registered owner and notarized.

2. The written notice provided pursuant to subsection 1 must indicate the reason for the destruction or abandonment of the motorboat and the current location and condition of the motorboat.

3. The registered owner shall surrender to the division the certificate of number and the certificate of ownership issued for the motorboat, if in existence, at the time he provides the written notice to the division pursuant to subsection 1.

4. Once a vessel has been destroyed or abandoned, the division shall print the word “salvage” on each subsequent certificate of number and certificate of ownership which it issues for that vessel.

Sec. 7. NAC 488.460 is hereby amended to read as follows:

488.460 *1.* A person shall not operate a motorboat in such a manner as to exceed ~~fa~~:

(a) A noise level of 86 ~~dbA~~ dB(A) measured at a distance of 50 feet or more from the motorboat as prescribed in Society of Automotive Engineers Standards, SAE J34;

(b) For engines manufactured:

(1) Before January 1, 1993, a noise level of 90 dB(A) when subjected to a stationary sound level test conducted in accordance with Society of Automotive Engineers Standards, SAE J2005; and

(2) On or after January 1, 1993, a noise level of 88 dB(A) when subjected to a stationary sound level test conducted in accordance with Society of Automotive Engineers Standards, SAE J2005; or

(c) A noise level of 75 dB(A) measured as specified in Society of Automotive Engineers Standards, SAE J1970,

FLUSH unless he has a permit issued in accordance with paragraph (d) of subsection 3 of NRS 488.195 or subsection 4 of NRS 488.195. *A measurement of noise level that is in compliance with paragraph (c) does not preclude the conducting of a test of noise level pursuant to paragraphs (a) or (b).* The fee for a permit issued in accordance with paragraph (d) of subsection 3 of NRS 488.195 is \$25.

2. A person shall not operate or give permission for the operation of any motorboat in or upon the waters of this state if the motorboat is equipped with an altered muffler, muffler cutout, muffler bypass or any other device designed or installed so that it can be used continually or intermittently to bypass any muffler or muffler system installed on the motorboat, or to reduce or eliminate the effectiveness of such a muffler or muffler system.

3. A person shall not remove, alter or otherwise modify in any way a muffler or muffler system installed on a motorboat in such a manner as to prevent the muffler or muffler system from being operated in accordance with this section.

4. A peace officer authorized to enforce the provisions of this section who has reason to believe that a motorboat is being operated in violation of the noise levels established in this section may direct the operator of the motorboat to submit the motorboat to an on-site test to measure noise level. An operator of a motorboat who receives a request from a peace officer pursuant to this subsection to test the noise level of the motorboat shall allow the motorboat to be tested. If, based on a test to determine the noise level of a motorboat administered pursuant to this section, the noise level of the motorboat exceeds the decibel levels established in this section, the peace officer shall direct the operator of the motorboat to take immediate and reasonable measures to correct the violation, including, without limitation, returning the

motorboat to a mooring and keeping the motorboat at the mooring until the motorboat no longer operates in violation of this section.

5. A copy of the conditions and restrictions for conducting a test of noise levels to determine if a motorboat is in violation of the maximum noise levels set forth in this section may be obtained free of charge from the main or any regional office of the division.

Sec. 8. NAC 488.465 is hereby amended to read as follows:

488.465 Vessels are prohibited in areas which are designated by signs or buoys as follows:

1. Within the Lake Mead National Recreation Area;

2. On the Colorado River:

(a) Below Davis Dam; and

(b) At the swimming area of Harrah's Casino in Laughlin;

3. On Lake Tahoe at:

(a) The main beaches at Sand Harbor and Divers' Cove within Lake Tahoe State Park;

(b) The swimming area of the Incline Village General Improvement District and Burnt Cedar Beach;

(c) The swimming area of Galilee at the Episcopal Camp and Conference Center;

(d) The swimming area of the Lakeridge General Improvement District;

(e) The swimming area of the Glenbrook Homeowner's Association;

(f) The swimming area of the Hyatt Regency Lake Tahoe;

(g) The swimming area of the Zephyr Cove Marina; ~~and~~

(h) The swimming area of Crystal Shores West; *and*

(i) The swimming and beach area adjacent to Nevada Beach described in 33 C.F.R. § 162.215;

4. At the dam and swim beach at the state recreation area in Rye Patch Reservoir;
5. At Lahontan Reservoir Dam;
6. At South Fork Reservoir Dam;
7. At Wildhorse Reservoir Dam;
8. At Eagle Valley Dam at Spring Valley State Park;
9. At Chimney Reservoir Dam in Humboldt County;
10. At the county swim beach at Topaz Lake; and
11. At the swimming area and diving area of Sparks Marina Park.

Sec. 9. NAC 488.467 is hereby amended to read as follows:

488.467 1. Except as otherwise provided in this section, use of vessels is restricted in the following wildlife management areas:

(a) In the Overton Wildlife Management Area, located in Clark County, vessels are prohibited on all ponds. Vessels are allowed on the portion of the area inundated by Lake Mead, except that on Overton Hunt Days, vessels may be used only by persons authorized to hunt waterfowl.

(b) In the Stillwater Wildlife Management Area, located in Churchill County:

(1) All vessels are prohibited on the ponds 5 days before the opening day of the waterfowl season.

(2) Airboats are prohibited until 1 hour after the legal shooting time on the opening day of the waterfowl season.

(c) In the Humboldt-Toulon Wildlife Management Area, located in Churchill and Pershing counties:

(1) All vessels are prohibited on the ponds in the Humboldt and Toulon Sink areas 5 days before the opening day of the waterfowl season.

(2) Airboats are prohibited on the Humboldt Sink until 1 hour after the legal shooting time on the opening day of the waterfowl season.

(3) Airboats are prohibited on the Toulon portion of the area during the waterfowl season.

(d) In the Mason Valley Wildlife Management Area, located in Lyon County, all vessels are prohibited from February 15 through July 14 of each year, except on:

(1) Hinkson Slough;

(2) Bass Pond;

(3) Crappie Pond;

(4) Bluegill Pond;

(5) The Walker River; and

(6) North Pond.

(e) In the Fort Churchill Cooling Pond Cooperative Wildlife Management Area, all vessels and floating devices, except for vessels used by employees of the Sierra Pacific Power Company in the performance of their official duties, are prohibited on the pond.

~~[(f) In the Key Pittman Wildlife Management Area, located in Lincoln County, all vessels and floating devices are prohibited during the waterfowl season.]~~

2. The provisions of subsection 1 do not apply to vessels owned, operated and used for official purposes by the division.

3. For the purposes of this section, a vessel is being used if the vessel:

(a) Is upon the waters of this state, including, without limitation, if it is tied or fastened to a dock, mooring or shore; and

(b) Is not aground on the shore.

Sec. 10. NAC 488.490 is hereby amended to read as follows:

488.490 As used in NAC 488.490 to 488.510, inclusive, *and section 2 of this regulation*, “marine event” means any regatta, motorboat or other boat race, marine parade, tournament or exhibition on any waters of this state.