

LCB FILE NO. R020-08

PROPOSED REGULATION OF THE BOARD OF WILDLIFE COMMISSIONERS

COMMISSION GENERAL REGULATION NUMBER 356

Authority: NRS 488.045, 488.400, 488.580, 488.730, 501.181, and 501.243

Notice of Intent:

Workshop Date:

Commission Approval Date:

EXPLANATION: Sections 1 and 2: The definition of undocumented motorboat is found in chapter 502 when the Department used to have license agents for boats. It is no longer needed in that section so we will delete it there and move it under chapter 488. Section 3 amends prima facie reckless operation by adding riding on the boat engine cover, operating under the influence of alcohol between .04 and .08, exceeding the weight or persons capacity or horsepower rating, operate a motorboat greater than a flat wake speed within 100 feet of an anchored or moored vessel, dock, pier, boat ramp, marina, swim float, marked swim area, a person or persons in the water, person(s) engaged in angling from shore or another vessel, or any manually-propelled vessel, operate a PWC with a passenger in front of the operator or permit passengers who can't hold on or maintain their feet on the deck, also drops the part referring to managing a sail because this section refers to "motorboats", not "sail" boats. Section 4 amends water skiing prohibitions by clarifying that a person or persons being towed are considered occupants of the vessel that is towing them for overloading of the tow vessel. Section 5 amends 488.492 regarding fees for marine event permit reimbursement. Section 6 amends 488.470 to move Spooner Lake from an area limited to vessels without motors to an area limited to vessels without motors and vessels powered by electric motors.

NOTE: Matter in *italics* is new; matter within brackets [] is to be omitted.

Section 1. NAC 502.110 is hereby repealed:

Text of repealed section: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.

Section 2. NAC 488. 010 is hereby amended to read as follows:

502.111 Definitions. (NRS 488.045, 501.181) As used in this chapter, unless the context otherwise requires:

1. "Commission" has the meaning ascribed to it in NRS 488.035.
2. "Demonstrating" or "demonstration" means to operate a motorboat on the waters of this State for the purpose of selling, transferring, bartering, trading, negotiating or attempting to negotiate the sale or exchange of any interest in a new or used motorboat, including the operation of the motorboat by a manufacturer for purposes of testing the motorboat. The term does not

include the operation of a motorboat for personal purposes by a dealer or manufacturer or an employee of a dealer or manufacturer, or by the friends or the members of the families of those persons.

3. "Department" has the meaning ascribed to it in NRS 488.035.
4. "Flat wake" has the meaning ascribed to it in NRS 488.035.
5. "Identification number" means the number assigned by the Department to each motorboat registered in accordance with chapter 488 of NRS.
6. "Legal owner" has the meaning ascribed to it in NRS 488.035.
7. "Length" means the length of a vessel measured in a straight line from one end of the hull to the other, excluding the deck, bowsprits, bumpkins, rudders, outboard motor brackets and similar fittings or attachments.
8. "Motorboat" has the meaning ascribed to it in NRS 488.035.
9. "Operate" has the meaning ascribed to it in NRS 488.035.
10. "Owner" has the meaning ascribed to it in NRS 488.035.
11. "Personal watercraft" has the meaning ascribed to it in NRS 488.580.
12. "Registered owner" has the meaning ascribed to it in NRS 488.035.
13. "State of principal use" means the state on whose waters a vessel is used or to be used for most of the calendar year.
14. "Under way" has the meaning ascribed to it in NRS 488.035.
15. *"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.*
- ~~15~~ 16. "Vessel" has the meaning ascribed to it in NRS 488.035.
- ~~16~~ 17. "Waters of this State" has the meaning ascribed to it in NRS 488.035.

Section 3. NAC 488.435 is hereby amended to read as follows:

488.435 **Prima facie evidence of reckless or negligent operation.** (NRS 488.045, 488.400, 501.181) 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, *outboard engine cover, inboard engine cover unless the feet are touching the deck, or seat backs* of 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]~~.
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 or under actual physical control of a vessel under power or sail with a concentration of alcohol of more than .04 to less than .08.*
6. *Operate any vessel that exceeds:*
 - (a) *The maximum weight capacity; or*
 - (b) *The maximum persons capacity; or*
 - (c) *The maximum horsepower; or*
 - (d) *The capacity limits as identified on the vessel's capacity label, or by calculations provided in 33 CFR Part 183, Subparts C and D.*

7. *“Capacity label” means the vessel manufacturer’s panel that indicates maximum loading or powering capacity as prescribed under federal regulations required by 33 CFR Part 183.*

8. *Operate a motorboat greater than a flat wake speed within 100 feet of an anchored or moored vessel, dock, pier, boat ramp, marina, swim float, marked swim area, a person or persons in the water, person(s) engaged in angling from shore or another vessel, or any manually-propelled vessel.*

9. *Operate a personal watercraft with any passenger riding in front of the operator.*

10. *Operate a personal watercraft with any passenger unless he or she is able to securely hold on to the person in front of them or to the handholds, and is also able to keep both feet on the deck so as to maintain balance during operation.*

Section 4. NAC 488.450 is hereby amended to read as follows:

488.450 Waterskiing and similar activities. ([NRS 488.045](#), [488.059](#), [501.181](#), [501.243](#))

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

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

3. 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. For the purposes of this section towed persons are considered passengers on board the vessel.*

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

NAC 488.492 Approval of marine event: Restriction; agreement to reimburse Department. (NRS 488.045, 488.305, 501.181, 501.243)

1. The Department shall not approve a marine event if the Director determines that providing the personnel and resources of the Department that 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, ~~[\$25]~~ \$70 per hour, plus the cost of the fuel used.
- (c) For each vehicle, ~~[\$10]~~ \$31 per day plus ~~{0.315-cents-per-mile}~~ *the federal standard mileage rate*.

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.

Section 6. NAC 488.470 is hereby amended to read as follows:

NAC 488.470 Areas limited to vessels without motors and vessels powered by electric motors; exceptions. ([NRS 488.045](#), [488.059](#), [501.181](#), [501.243](#))

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)](d) 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.