

LCB File No. R116-00

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

COMMISSION GENERAL REGULATION 293

Authority: 488.045, 488.059, 488.145, 488.305, 501.181, 501.243

Notice of Intent:

Commission Approval:

Workshop Date:

Explanation: Amends NAC 488 by adding a regulation to facilitate agreements to reimburse the Division for expenses incurred to patrol marine events that was recently authorized by NRS 488.305.

Amends NAC 488 by adding provisions to establish procedures to process a boat title change on a vessel resulting from a lien pursuant to NRS 108.473 thru 108.4783 and NRS 108.670 thru 108.760. A lien is a charge upon real or personal property for the satisfaction of some debt. Nevada Revised Statutes (NRS) 108.670 through 108.760 provide the authority for a person to collect a debt when the debt has been incurred for wages, for work done, or for services rendered on a vessel. NRS 108.473-1084783 provides for procedures for liens on facilities for storage. Storage liens may be processed under either set of provisions. For example a lien against a vessel as a result of a specific storage agreement for that vessel, whether indoors or out, would require that the lien be processed under the provisions of NRS 108.670 et. seq., as such an agreement would clearly identify the lien claimant as a business engaged in the, “keeping of a shop or place for the storage, maintenance, keeping or repair of vessels or rental of spaces for vessels,” (NRS 108.670.2). On the other hand, a lien asserted against the same vessel as a result of a storage unit rental agreement, where the vessel’s presence is only incidental to the storage of other personal property, would require processing under the provisions of NRS 108.473 et seq.

The Division will accept and process properly executed lien documents falling within either category. However, in order to ensure the documents are processed without unnecessary delay, it will be necessary for applicants to clearly identify which type of lien is being asserted, include the appropriate supporting documentation, and provide certification that provisions governing the specified lien were followed on all transactions submitted to the Division.

Amends NAC 488.145 Written notice to Division of Destroyed or Abandoned Motorboat, by adding a new section 4 that requires the Division to flag titles and certificates of number as “salvage” when re-registered and titled in the future. Many vessels are destroyed or severely damaged in boat accidents and sold by insurance companies as salvage. These vessels are then sold and rebuilt. The new purchaser would then have no way to know the history of the vessel, bordering on fraud.

Amends NAC 488.460, Maximum Noise Level for Operation of Motorboats; Fee for Certain Permits, by expanding the number of noise tests available for compliance from the current 86 dB(A) SAE J34 50 foot pass by test (which requires a course set up) to add the 90/88

dB(A) SAE J2005 stationary (dockside) test or the 75 dB(A) SAE J1970 shore line test, dependent on conditions and location of the suspected noise polluter.

Amends NAC 488.465, Areas in Which Vessels Prohibited, by adding the swimming area and beach of Nevada Beach Day Use Area, pursuant to a request from the U.S. Forest Service Supervisor to allow Nevada peace officer to enforce a no boat zone already in effect in 33CFR Part 207.643.

Amends NAC 488.467, Restriction on Use of Vessels in Wildlife Management Areas, by deleting section 1 (f) that currently prohibits all vessels and floating devices during the waterfowl season in the Key Pittman Wildlife Management Area pursuant to a request from Commissioner Jack Coons.

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

Section 1. Chapter 488 of NAC is hereby amended by adding thereto the provisions set as sections 2 and 3 of this regulation.

Sec. 2. 1. *The sponsor of a marine event shall reimburse the Division for control of a marine event as defined in NAC 488.490 when the scheduled event substantially increases or disrupts the normal traffic on the water or requires special consideration for the safety of spectators. Minor events with small spectator crowds are not subject to cost reimbursements. Events requiring more than one protection unit, defined as an officer and patrol vessel, may be required to reimburse the Division. Major events shall enter into a reimbursement agreement for expenses for each protection unit including equipment used, expenses for personnel and general operating expenses. The services provided by the Division must not impair the ability of the Division to perform its routine customary duties.*

2. The rate of reimbursement will be:

(a) at the productive hourly rate for personnel cost;

(1) game warden supervisor at their existing pay grade;

(2) game warden III at their existing pay grade;

(3) for overtime, the rate will be one and one-half times the hourly rate.

(b) vessels at \$25.00 per hour; and

(c) vehicles at \$10.00 per day plus .315 cents per mile; and

(d) per diem at the current state rate or make necessary arrangements for pre payment of meals and lodging equal to or exceeding the state rate.

3. The reimbursement agreement will be approved by a duly authorized representative of the sponsoring organization and the Division Administrator or his designee a minimum of 14 days in advance of the marine event. The reimbursement agreement will include a cost estimate not to be exceeded by 5 percent without prior written request and approval by the sponsoring organization and the Division.

4. The Division shall receive a certified check for the reimbursement fee within fourteen days following the completion of the marine event.

5. The Division may require the sponsoring organization to furnish a bond to ensure that reimbursement is made.

6. Reimbursement received by the division must be deposited into the boat account.

7. The sponsoring organization must agree to defend, protect, indemnify, and hold harmless the State of Nevada, the Division, its officers, agents and employees, from and against any and all claims, losses, suits or actions resulting from the activities of the permittees, its subcontractors, agents or employees under the agreement and to pay all claims, damages, judgements, legal costs or any other expense or liability related thereto.

Sec. 3. 1. *To establish that the statutory conditions for a vessel lien pursuant to Nevada Revised Statutes 108.473 thru 108.4783, an incidental storage lien for personal property or NRS 108.670 thru 108.760, when the lien claimant is a business for storage, maintenance, keeping or repair of vessels or rental of spaces for vessels, have been met.*

A. The lien claimant causing the sale must provide to the Division a valid release of all claims to the vessel from all owners and legal owners or;

B. If no release is available for reasons of failure to make a claim after lawful demand and notice or dissolution of the secured party, the lien claimant must provide the following information to the Division:

(1) Proof that all requirements contained in NRS 108.670, et. seq. Or 108.473 et. seq. have been met by filing a complete and notarized vessel lien affidavit or storage lien affidavit for that vessel; the lienholder must identify which procedure was followed.

(2) The description of the vessel required by either statute must include the boat number and hull identification number if it exists or is known.

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

(4) A copy of the affidavit of publication for the sale or auction of that vessel.

2. A. If a lien claimant or new buyer applies for change of ownership on a vessel, then the lien claimant or new buyer must provide the Division with a copy of the letter and evidence of a certified letter being sent and received, or the returned certified letter.

B. If the certified letter sent by the lien claimant is delivered, then a copy of the letter and certified return receipt must be submitted to the Division as documentation that the requirements of the law have been met. A copy of the letter and the certified return receipt or a copy of the certified mail register will be retained in the boat file.

C. If the certified letter sent by the lien claimant is returned undelivered, the lien claimant must bring the (preferably unopened) envelope along with a copy of the certified letter to the Division with documentation of attempted postal delivery.

3. The lien claimant must provide evidence of the affidavit of publication for the sale which took place at least 22 days after the date of the first advertisement.

4. The lien claimant must provide proof of a lien satisfied from known persons holding a security interest in the vessel. If it is not possible to obtain a lien satisfied the lien claimant must document on the vessel lien affidavit that all reasonable attempts, including notification of the registered, legal and any other known person who may have an interest in the vessel, were made and why they were unsuccessful. A reasonable attempt would include mailing a certified letter to the main office of successors to the business who originally held the lien and was subsequently relocated or reorganized. All lien claimants must provide a completed and notarized vessel lien affidavit.

5. Liens for storage facilities requirements:

A. If the occupant of the storage unit is not the registered or legal owner of the vessel then the lien claimant must send each person separate notices.

B. A lien claimant that posts a notice of auction must submit an affidavit of posting which includes the date and all locations of posting.

6. A refusal to entertain bids at an advertised auction or sale invalidates the sale and the Division will require the lien claimant to conform to the statutory requirements.

Sec. 4 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. The Division will print the word "salvage" on each subsequent certificate of number and certificate of ownership on any vessel previously noticed as abandoned or destroyed.

Sec. 5. NAC 488.460 is hereby amended to read as follows:

488.460 Maximum noise level for operation of motorboats; fee for certain permits.

1. A person shall not operate a motorboat in such a manner as to exceed a noise level of:

(a) 86 ~~dB(A)~~ dB(A) measured at a distance of 50 feet or more from the motorboat as prescribed in SAE J34 or;

(b) In such a manner as to exceed the following noise levels:

(1) For engines manufactured before January 1, 1993, a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005;

(2) for engines manufactured on or after January 1, 1993, a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005; or

(c) or in such a manner as to exceed a noise level of 75dB(A) measured as specified in SAE J1970, provided, that such measurement shall not preclude a stationary sound level test as prescribed by SAE J2005; 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. The fee for a permit issued in accordance with paragraph (d) of subsection 3 of NRS 488.195 is \$25.

2. No person shall operate or give permission for the operation of any motorboat in or upon the waters of this state that is equipped with an altered muffler , muffler cutout, muffler bypass other device designed or installed so that it can be used to continually or intermittently bypass, or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat.

(a) no person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with this subsection.

3. Any peace officer authorized to enforce the provisions of this subsection who has reason to believe that a motorboat is not in compliance with the noise levels established in this subsection may direct the operator of such motorboat to submit the motorboat to an on-site test to measure noise level, and the operator shall comply with such request. IF such motorboat exceeds the decibel levels established in this subsection, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the motorboat to a mooring and keeping the motorboat at such mooring until the violation is corrected.

Sec. 6. 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; ~~land~~

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

(I) The swimming area and beach of Nevada Beach Day Use Area

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; and

10. At the county swim beach at Topaz Lake.

Sec. 7. 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.