

LEGAL NOTICE

In accordance with Neb. Rev. Stat. 84-907, public hearings conducted by the Nebraska Game and Parks Commission, will be held on October 21, 2022 at the Broken Bow Public Library Meeting Room 626 South D St. Broken Bow, NE prior to consideration and/or enactment of the following:

Pursuant to Neb. Rev. Stat. Sections §§ 37-1201, 37-1202, 37-1246, 37-1247, 37-1265, 37-1266, 37-1268; a public hearing will be held at 8:30 AM to consider amendments to Title 163, Nebraska Administrative Code Chapter 3, entitled Boating Regulations, Section 003 – Equipment Standards to update current regulations to conform with federal law regarding changing language from life preservers to personal flotation devices approved by the US Coast Guard, changing language from boat to vessel and clarifying language on what constitutes overloading of a vessel.

Pursuant to Neb. Rev. Stat. Sections §§37-336, 37-338, 37-1266, a public hearing will be held at 8:45 AM to consider amendments to Title 163, Nebraska Administrative Code Chapter 3, entitled Boating Regulations, Section 012 Waters with Special Restrictions by adding a 5 mph/no wake regulation from sundown to sunrise on Lake 15 (Victory Lake) and Lake 10 at Fremont Lakes. Add language limiting the number towable devices for water sports pulled by a motorboat or personal watercraft to one at Fremont Lakes SRA on Lake 15 (Victory Lake) and Lake 10. Add Lake at Bridgeport SRA to Sub-section 012.08. Add language clarifying that non-powered vessels and those powered by outboard electric motors are not allowed to operate at Fremont Lakes SRA on Lake 15 (Victory Lake) and Lake 10. Add an exemption for NGPC and other governmental agencies working in their official capacity.

Pursuant to Neb. Rev. Stat. Sections §§37-1201, 37-1202, 37-1246, 37-1247, 37-1265, 37-1266, 37-1268, a public hearing will be held at 9:00 AM to consider amendments to Title 163, Nebraska Administrative Code Chapter 3, entitled Boating Regulations, Section 015, Special Rules and Regulations for Non-Public Lake Associations, deleting redundant language and correcting errors, removing 015.02R through subpart 015.02R5 in regard to Villa Springs per their HOA request. Add language for the Sanitary and Improvement District No. 177 (Riverside Lakes, East Lake) Douglas County to this section from Section 12

Pursuant to Neb. Rev. Stat. Sections §§37-301, 37-304, 37-314, 37-424, a public hearing will be held at 9:15 AM to consider amendments to Title 163, Nebraska Administrative Code Chapter 2, entitled Fisheries Regulations, Section 010 Special Fishing Permits for Residents Who Are Severely Physically or Developmentally Disabled and Who Require Assistance in Angling, to simplify public access to forms for the permitting and renewal process by making them available online and at permitting offices.

Pursuant to Neb. Rev. Stat. Sections §§ 37-301 through 37-316, 37-353, 37-401, 37-403 through 37-406, 37-411, 37-412, 37-413, 37-414, 37-418, 37-426 through 37-429, 37-447 through 37-453, 37-457, 37-455 through 37-461, 37-463, 37-464, 37-477 through 37-479, 37-482.01, 37-497, 37-498, 37-501 through 37-503, 37-508, 37-509, 37-512, 37-514, 37-520, 37-525, 37-527, 37-529, 37-532, 37-534, 37-537, 37-540, 37-547, 37-560, 37-563, 37-701, 37-708, 37-802 through 37-811, a public hearing will be held at 9:30 AM to consider amendments to Title 163, Nebraska Administrative Code, Chapter 4, entitled Wildlife Regulations, Section 001- General Regulations Governing Wildlife Species to allow for hunters applying for non-resident archery antelope permits to earn or buy a preference point, clarify language for the time limits to check a turkey, clarify that all antelope may be checked via the internet or telephone, and allows canceling and checking of an electronic turkey permit on a mobile device beginning in spring 2023.

Pursuant to Neb. Rev. Stat. Sections §§37-301, 37-304, 37-308, 37-308.01, 37-314, 37-315, 37-317, 37-404, 37-406, 37-409, 37-447, 37-449, 37-450, 37-452, 37-453, 37-455, 37-455.01, 37-456, 37-456.01, 37-529, 37-701, 37-706, 37-708, a public hearing will be held at 9:45 AM to consider amendments to Title 163, Nebraska Administrative Code, Chapter 4, entitled Wildlife Regulations, Section 003 adding language to include the Pine Ridge Mule Deer Conservation Area permit to the list of draw units. Add the non-resident antelope archery permit to the list of antelope permits that are draw units, and allow non-resident archery antelope hunters to either apply for a preference point or the archery permit.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-304, 37-305, 37-308, 37-314, 37-315, 37-344, 37-411, 37-426, 37-4,104, 37-4,107, 37-4,109, 37-4,111, 37-501 through 37-504, 37-508 and 37-543 through 37-545, a public hearing will be held at 10:00 AM., to consider amendments to Commission Order C06, Sport Fishing, regarding daily bag limits, possession limits, length limits, and open areas. Update the water bodies that have a minimum length limit of 21 inches on Black Bass. Redefine boundary designation between the Republican River and Harlan County Reservoir for size and/or bag limits for Channel Catfish and Walleye, Sauger and Saugeye. Add an additional lake to the no harvest of Northern Pike. Establish special size restriction for Bluegill, Redear and Crappie for Flanagan Lake. Update restriction for Lonergran Creek and Otter Creek at Lake

McConaughy.

Copies of the proposed regulations and the Fiscal Impact Statement shall be available for public inspection at the Game and Parks Commission office and the Office of the Secretary of State.

Copies of the proposed Commission Order changes shall be available for public inspection at the Game and Parks Commission website at www.outdoornebraska.gov.

All interested persons may attend and testify orally or by written submission at the public hearing. Interested persons or organizations may submit written comments prior to the hearing, which will be entered into the hearing record if they: 1) include a request to be included as part of the hearing record; 2) include the name and address of the person or organization submitting the comments; and 3) are received by 1:00 p.m. CT October 19, 2022 by Sheri Henderson at the Lincoln office, 2200 North 33rd Street, Lincoln, NE 68503-0370.

Tim McCoy, Director

FISCAL IMPACT STATEMENT

Agency: Nebraska Game and Parks Commission	
Title: 163	Prepared by: Jeff Clauson
Chapter: 3	Date prepared: September 16, 2022
Subject: Section <u>003</u> – Equipment Standards	Telephone: 402/471-5531

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: \$0
 Political
 Subdivision: \$0
 Regulated
 Public: \$0

If indeterminable, explain why:

TITLE: 163, NEBRASKA GAME AND PARKS COMMISSION

CHAPTER: 3 REGULATIONS Boating – Equipment Standards

ACTION: Amendments to Existing Regulations

EXPLANATORY STATEMENT

Prepared by: Jeff Clauson, Boating Law Administrator

The Nebraska Game and Parks Commission is amending the above-referenced regulations as provided by law, and hereby submits this explanatory statement to accompany the regulation and describe their purposes and the changes made during the rulemaking process.

I. Summary: Changes made to existing regulations.

II. Overview of Purposes and Changes Made

Section 003. Last approved date changed. Duplicate statutory reference deleted.

003.01 clarifying language added to define the time that vessels need to exhibit anchor lights.

003.02 language changed from Life Preservers to Personal Flotation Devices (PFD) to mirror 33 CFR 175.15

003.02A remove language in regard to boat and replace with vessel. Remove language regarding type I, II, III, IV, and V life preservers and replace with wearable PFDs to comply with 33 CFR 175.15

003.02B change language from life preserver to PFD to comply with 33 CFR 175.15

003.02C language changed from life preservers to PFDs. Change language from type of life preserver to wearable and throwable PFD to comply with 33 CFR 175.15

003.02C1 change language from type of life preserver to U.S. Coast Guard approved wearable and throwable ring buoy to comply with 33 CFR 175.15

003.02C2 change language from type of life preserver to wearable and throwable ring buoy to comply with 33 CFR 175.15. Remove redundant language in reference to readily accessible

003.03 add U.S. to Coast Guard for consistency

003.03A correct grammar in Part

003.04 add U.S. to Coast Guard for consistency

003.05 language added to be consistent with language regarding motorboats

003-05C correct grammar in Part and added language regarding motorboats

003.08 language added to clarify how to determine an overloaded vessel by referring to the manufacturer's capacity plate. Language added for those vessels that do not have a manufacturer's capacity plate.

003.09 change language from boat to vessel for uniformity and definition purposes

003.10 eliminated Sub-section with clarification added to 003.08

003.11 renumbered to 003.10

The proposed regulations are consistent with the legislative intent established by Section 84-907.09. The proposed regulation is not the result of any state or federal mandate, rendering a state or federal funding mechanism not applicable. The Commission will solicit public comment prior to the date of the public hearing. The Commission did not use the Negotiated Rule-Making Act in developing the proposed regulation.

Changes in Text Between Notice and Adoption:

DATED the 16th day of September 2022.

NEBRASKA GAME AND PARKS COMMISSION

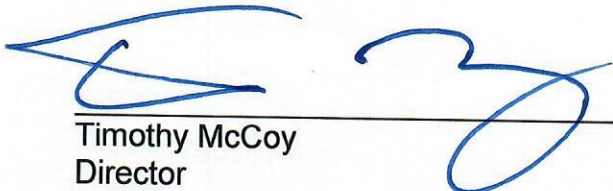


Craig Stover
Law Enforcement Division Administrator

I hereby adopt this explanation statement as the statement of the Nebraska Game and Parks Commission concerning the purposes of this rulemaking action and of the changes made during the process.

DATED the 16th day of September 2022.

NEBRASKA GAME AND PARKS COMMISSION



Timothy McCoy
Director
NEBRASKA GAME AND PARKS COMMISSION

**NOTICE OF RULEMAKING
COMMENT PERIOD**

NOTICE is hereby given that the Nebraska Game and Parks Commission is accepting written comments on working drafts of proposed amendments, Title 163, Nebraska Administrative Code Chapter 3, entitled REGULATIONS Boating, Section 003 – Equipment Standards.

All interested persons are invited to obtain draft copies of the proposed regulations from and submit their written comments to Sheri Henderson, Division of Administration, Nebraska Game and Parks Commission, 2200 North 33rd, P.O. Box 30370, Lincoln, NE 68503, or FAX 402/471-5528. The comment period will end at the close of business on October 19, 2022.

If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above-named person at 402/471-5539 or, for persons with hearing impairments, (402) TDD or Nebraska Relay System, (800) 833-7352 TDD by no later than October 13, 2022.

REGULATIONS DOCKET
Check List

AGENCY: NEBRASKA GAME AND PARKS COMMISSION

AGENCY CONTACT: Sheri Henderson, Division of Administration, NEBRASKA GAME AND PARKS COMMISSION, 2200 North 33rd, P.O. Box 30370, Lincoln, NE 68503

PROPOSED NEBRASKA ADMINISTRATIVE CODE CITATION: Title 163, Chapter 3, Section 003

PROPOSED NAME OR TOPIC AREA OF REGULATIONS: See "Abstract of Subject Matter" below

LEGAL AUTHORITY FOR RULES: Neb. Rev. Stat. §§ 37-1201, 37-1202, 37-1246, 37-1247, 37-1265, 37-1266, 37-1268

ABSTRACT OF SUBJECT MATTER: Boating – Equipment Standards.

Timetable/Status

Stage	Action	Proposed Date	Effective Date(s)
Pre-Rule	Drafting internal reviews	_____	_____
	Advance notice comment period	_____	_____
	Negotiated Rulemaking	_____	_____
Proposed Rule	Notice of Rulemaking Hearing	<u>9/16/2022</u>	_____
	Governor Waiver	_____	_____
	Rulemaking Hearing	<u>10/21/2022</u>	_____
	Post-hearing Analyses and Revisions	_____	_____
Final Rule	Agency Reviews & Approval	_____	_____
	Attorney General Submission	_____	_____
	Attorney General Approval	_____	_____
	Governor Submission Governor Approval	_____	_____
Completion	Filing Date	_____	_____
	Indexing Date	_____	_____
	Publication	_____	_____
or Termination	Notice of Termination w/o Rulemaking	_____	_____
Operative Date	*If later than effective date prescribed in 84-906 & 84-911	_____	_____

NEBRASKA ADMINISTRATIVE CODE

Last Issue Date: ~~May 11, 2004~~ January 25, 2008

Title 163 - Nebraska Game and Parks Commission
Chapter 3 – Boating Regulations

003 Equipment Standards

Minimum standards for required equipment shall be as provided in the statutes, with the following additions and clarifications. Under authority of and in compliance with sections Neb. Rev. Stat. §§ 37-1201, through 37-1274; 37-1202, 37-1246, 37-1247, 37-1265, 37-1266, 37-1268, the following regulations are prescribed by the Nebraska Game and Parks Commission ~~and are effective following enactment by the Game and Parks Commission, approval by the Attorney General and Governor, and when five days have elapsed since filing with the Secretary of State.~~

003.01 All vessels permitted by law to remain be on the water at any time from between sunset ~~to and~~ sunrise shall in all weathers carry and exhibit when anchored on the waters of this State white lights so fixed as to show all around the horizon and to be visible at a distance of at least two miles, unless anchored in sheltered waters off the main water courses or near docks, harbors, or marinas, or in a marked anchorage area.

003.02 Life Preservers Personal Flotation Devices (PFD)

003.02A Every ~~boat~~ vessel, except sailboards, or other description of vessel, including any buoyant device capable of being used as a means of transportation on water, shall carry at least one wearable U.S. Coast Guard approved Type I, II, III or V life preserver Personal Flotation Devices (PFD) of suitable size for each person on board. All such devices shall be kept in good and seamanlike condition and be so placed as to be readily accessible. Each Type V (Special Use Device) wearable PFD must be worn and used in accordance with the conditions marked on the device in order to meet U.S. Coast Guard requirements.

003.02B It shall be unlawful for children less than thirteen years to fail to wear U.S. Coast Guard approved life preserver PFDs, of suitable size, at all times while aboard any vessel on the waters of the State except when hunting waterfowl in an anchored vessel. Operators of vessels shall at all times be held responsible for this requirement.

003.02C Every vessel carrying passengers for hire shall carry the following listed U.S. Coast Guard approved life preservers, PFDs. All wearable life preservers PFDs must have 31 square inches of retroreflective tape per side. Vessels less than 26 feet shall carry a wearable PFD Type I, II or III for each person on board in addition plus one Type IV throwable PFD.

003.02C1 Vessels 26 feet, but less than 40 feet shall carry one Type I, II or III U. S. Coast Guard approved wearable PFD for each person on board plus one Type IV throwable ring buoy size 20, 24 or 30 inch.

003.02C2 Vessels over 40 feet shall carry one Type I offshore wearable PFD for each person on board plus one Type IV throwable ring buoy size 20, 24 or 30 inch. All life preservers must be in good serviceable condition and readily accessible.

003.03 The fire extinguisher required by the provisions of Neb. Rev. Stat. § section 37-1242, for all motorboats operating on the waters within this State shall be of the carbon dioxide, dry chemical, or foam type as currently approved by the U.S. Coast Guard and shall be kept readily accessible, in condition for immediate and effective use, in good and serviceable condition and shall be of the following U.S. Coast Guard classes; B-I = 1.75 gallons of foam, or four pounds of CO₂ or two pounds of dry chemical. B-II = 2.5 gallons of foam or 15 pounds of CO₂ of dry chemical.

003.03A Provided, racing boats under certain conditions, outboard motorboats less than 26 feet in length which are of open construction and which do not carry passengers for hire shall not be required to carry a fire extinguisher. Class one and two motorboats which are not exempt must carry one such B-I extinguisher. Class three motorboats which are not exempt must carry two B-I or one B-II such extinguisher and class four motorboats which are not exempt must carry three such B-I or one B-I and one B-II extinguisher or if equipped with a fixed system then two B-I or one B-II. All airboats must be equipped with a fire extinguisher according to class as stated above.

003.04 The flame arresters required for all carburetors of motorboats except outboard motors by Neb. Rev. Stat. § section 37-1244, shall be of a type and manufacture currently approved by the U.S. Coast Guard and meeting all U.S. Coast Guard specifications.

003.05 A venting system for bilges and fuel tank compartments shall be required for all motorboats using as fuel any liquid of a volatile nature except open motorboats. The minimum requirements for such venting system shall be the following:

003.05A Fill pipes must be firmly attached to tight deck plates.

003.05B The fuel tank vent pipe must lead to open air with a screened outboard end and must be well clear of all hull openings.

003.05C Motorboats must be equipped with one air intake and one air exhaust cowl for each closed fuel and engine compartment, except on open motorboats where gases cannot accumulate in open fuel and open engine

spaces. The intake and exhaust cowl must be equipped with ducts, and the hoses must be equipped with ducts, and the hoses must be at least two inches in diameter. The exhaust hose must extend to the bilge and the air intake hose must extend halfway down in the area as far as the carburetor air intake or top fuel tank.

003.06 Every vessel, except personal watercraft, sailboards or similar devices and class 3 or 4 motorboats shall carry an oar or paddle.

003.07 Every vessel, except personal watercraft, sailboards or similar devices shall be equipped with a bailing bucket, efficient bilge pump or sponge.

003.08 Overloading – Loading of vessels shall not exceed reasonable, proper and seaman-like U.S. Coast Guard standards for safe loading. No overloaded vessel shall be operated on the waters of the State. No vessel shall operate or be on any waters of the State if they exceed the limits of either the number of persons or total weight, as indicated by the mandatory U.S. Coast Guard Capacity Plate installed on vessels by manufacturers. If the vessel does not have a U.S. Coast Guard Capacity Plate installed by the manufacturer, the vessel must retain at least one-half (½) of the total depth of the vessel above the water when measured at the center of the boat.

003.09 No person shall place or allow to remain on the waters of this State any boat vessel which is not safe for operation.

003.10 ~~All boats used on waters under the jurisdiction of the Commission shall be safe for the waters on which they are used. All boats when loaded must retain at least one-half (½) of the total depth of the boat above the water when measured at the center of the boat and shall not exceed the overloading limits set by the mandatory Coast Guard Capacity Plate installed on vessels by manufacturers.~~

003.140 In addition to the sound-producing equipment required by Neb. Rev. Stat. §§ section 37-1239 and 37-1240 every vessel of Class I shall carry an efficient whistle. All whistles and bells shall be audible for a distance of one-half (½) mile.