

## NASBLA DRAFT MODEL ACTS and RELATED ADMINISTRATIVE RULES

### Options for Incorporating Non-Powered Vessels into Funding for Boating Education and Access Programs

#### Background on Related NASBLA Model Acts

*In September 2000, the membership of the National Association of State Boating Law Administrators adopted a Model Act for Numbering and Titling of Manually-Powered Vessels. In developing that original act, the NASBLA Numbering and Titling Committee reasoned that there was a need for the states, as well as the U.S. Coast Guard, to know how many manually-powered vessels were being operated in this country.*

*In Sept. 2005, as part of NASBLA's Model Act Review and Standardization Project, a revised version, re-titled as the Model Act for Numbering and Titling of Non-Powered Vessels, was approved by the Association membership.<sup>1</sup> The updated term "non-powered" was used to identify any watercraft propelled by paddles, oars or poles, including canoes, kayaks and other similar vessels.*

#### Current Work and Proposed New Alternative Model Acts and Rules Related to Non-Powered Vessels

*Since Sept. 2005, the Numbering and Titling Committee has reviewed additional suggestions for the content of that Non-Powered Vessels Model Act as offered by the NASBLA Paddlesports Committee in conjunction with the paddlesports community.<sup>2</sup> Since February 2006, the Numbering and Titling Committee has made additional revisions and clarifications to the Model Act. Those revisions will be considered at the NASBLA Annual Conference, Sept. 2006.*

*However, as the U.S. Coast Guard has advised that such watercraft cannot be counted as numbered vessels without a change in federal law, the Paddlesports Committee offers the following draft Model Acts and related draft Administrative Rules as optional methods for incorporating non-powered vessels into funding for educational and access programs.*

*The first draft Model Act (and related draft Administrative Rules) is based on Ohio's alternative registration system with a unique decal for such vessels.<sup>3</sup> The second draft Model Act (and related draft Administrative Rules) is based on Pennsylvania's launch permit system for the use of state waterways facilities.<sup>4</sup>*

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<sup>1</sup> See also the NASBLA Model Act for Vessel Titling, originally adopted Sept. 1996, and subsequently approved by the NASBLA membership on Sept. 21, 2005, as part of the Model Act Review and Standardization Project.

<sup>2</sup> Those suggestions were intended to address proof of ownership, display requirements for the state issued number, fee structures, and elimination of the carriage requirement for the certificate of number.

<sup>3</sup> Especially, Ohio Revised Code sections 1547.53, 1547.57, 1547.54, and Ohio Administrative Code 1501:47-1-21.

<sup>4</sup> Especially, 30 Pennsylvania Consolidated Statutes section 742(e) and related sections under 58 Pennsylvania Code Ch. 53. The former authorizes the issuance of use permits by amending the Fish and Boat Commission's "use of property."

**DRAFT MODEL ACT -- ALTERNATIVE REGISTRATION  
REQUIREMENTS FOR NON-POWERED VESSELS**

1 Section 1. [*Short Title.*] This act may be cited as the Alternative Registration Requirements for  
2 Non-Powered Vessels Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Issuing authority" means [insert name of agency/authority designated by the legislative  
3 body to administer the state's vessel numbering system and provisions of this act].

4 (2) "Hull identification number" means the number assigned to a non-powered vessel under  
5 Subpart C of 33 CFR Part 181.

6 (3) "Non-powered vessel" means a watercraft propelled by human or wind power and that is  
7 operated or capable of being operated as a means of transportation on the water.

8 (4) "Operate," "Operated" or "Operation" means all operations of a non-powered vessel when  
9 it is at the pier, idle in the water, at anchor, or being propelled through the water.

10 (5) "Owner" means a person, other than a secured party, having the property rights in a non-  
11 powered vessel. "Owner" includes a person entitled to use or possess a non-powered vessel  
12 subject to a security interest in another person, but does not include a lessee under a lease not  
13 intended as security.

14 (6) "Watercraft" means non-powered vessel for purposes of this act.

15 (7) "Waters of this state" means any waters within the jurisdiction of the state.

1 Section 3. [*Applicability.*] The provisions of this act shall apply to non-powered vessels that are  
2 registered under [insert appropriate section(s) of state statute] and that an owner chooses not to  
3 have numbered under [insert appropriate section(s) of state statute]. An owner of a non-powered  
4 vessel may choose to do either of the following:

5 (1) Have the non-powered vessel numbered under [insert appropriate section(s) of state  
6 statute], pay a lesser registration fee under Section 5(1) of this act, and obtain square decals  
7 under Section 4(a) of this act;

8 (2) Not have the non-powered vessel numbered under [insert appropriate section(s) of state  
9 statute], pay a higher registration fee under Section 5(2) of this act, and obtain a rectangular  
10 decal under Section 4(b) of this act.

1 Section 4. [*Decals indicating registration certificate expiration date.*]

2 (a) Except as otherwise provided in subsection (b) of this section, when the issuing authority  
3 issues a registration certificate under [insert appropriate section(s) of state statute], the issuing  
4 authority also shall issue to the applicant two (2) decals not larger than three (3) inches square,  
5 color coded, indicating the expiration date of the certificate. The owner of any non-powered  
6 vessel for which a registration certificate is issued shall securely affix one decal to the  
7 watercraft's port side, six (6) inches toward the stern from the hull identification number, and the  
8 other decal to the starboard side, six (6) inches toward the stern from the hull identification  
9 number. The decals shall be securely affixed to the watercraft prior to its operation, but shall be  
10 removed from the watercraft when they become invalid. A person may operate without a  
11 registration certificate issued under [insert appropriate section(s) of state statute], for a period not

12 to exceed [forty-five (45)] days, any watercraft required to be titled on the waters in this state if  
13 the person is in compliance with [insert appropriate section(s) of state statute].

14 (b) When the issuing authority issues a registration certificate under [insert appropriate  
15 section(s) of state statute] for a non-powered vessel that has not been numbered under [insert  
16 appropriate section of state statute], the issuing authority also shall issue to the applicant a decal  
17 not larger than three (3) inches by six (6) inches, with distinguishing color coding and a number  
18 for identification purposes. The owner of the non-powered vessel for which the registration  
19 certificate is issued shall affix the decal securely to a location on the watercraft as prescribed by  
20 rules adopted by the issuing authority under [insert appropriate section of state statute].

1 Section 5. [*Application for Registration Certificate Fee.*] An application for a [insert term]  
2 registration of a non-powered vessel under [insert appropriate section of state statute] shall be  
3 accompanied by the following fee:

- 4 (1) For non-powered vessels that are numbered under [insert appropriate section of state  
5 statute], [insert lesser amount of dollars than subsection (2)];  
6 (2) For non-powered vessels that are not numbered under [insert appropriate section of state  
7 statute], [insert greater amount of dollars than subsection (1)].

1 Section 6. [*Penalty for Violation.*] Any person violating any provisions of this act shall be  
2 guilty of [insert offense and penalty(ies)].

1 Section 7. [*Effective Date.*] [Insert effective date.]

## **DRAFT ADMINISTRATIVE RULES -- ALTERNATIVE REGISTRATION REQUIREMENTS FOR NON-POWERED VESSELS – DISPLAY OF DECAL**

**Statutory Authority:** [insert citation for statute authorizing promulgation of rules regarding display of decal (Section 4(b) of Draft Model Act -- Alternative Registration Requirements For Non-Powered Vessels)]

### **Section 1. General Provisions**

#### **100 Policy Statement.**

[Insert if appropriate]

#### **101 Definitions.** As used in these rules, unless otherwise required by context:

101.1 "Act" means [insert citation for statute (Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)] or any act successor thereto.

101.2 “Hull identification number” has the meaning ascribed to it in [insert citation for statute (Section 2 of Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)].

101.3 "Non-powered vessel" has the meaning ascribed to it in [insert citation for statute (Section 2 of Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)].

101.4 "Operate," "Operated" or "Operation" has the meaning ascribed to it in [insert citation for statute (Section 2 of Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)].

101.5 "Owner" has the meaning ascribed to it in [insert citation for statute (Section 2 of Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)].

101.6 "Waters of this state" has the meaning ascribed to it in [insert citation for statute (Section 2 of Draft Model Act – Alternative Registration Requirements for Non-Powered Vessels)].

## **102 Display of Decal.**

102.1 The owner of a non-powered vessel for which a registration certificate is issued under [insert appropriate section of state statute], and which is referenced in [Section 3 of Draft Model Act -- Alternative Registration Requirements for Non-Powered Vessels Act] shall securely affix the assigned decal to the non-powered vessel in a location that is visible under normal operating conditions in one of the following manners:

- (a) On the transom, the decal should be affixed in the upper right corner of the transom and placed so that the decal does not interfere with the legibility of the hull identification number;
- (b) On a deck on the rear half of the non-powered vessel;
- (c) On the outside below the port side gunnel; or
- (d) On the inside of the non-powered vessel on the upper portion of the starboard side gunnel so that it is visible from the port side of the vessel.

102.2 The decal shall be securely affixed to the non-powered vessel prior to its operation, but shall be removed when it becomes invalid.

102.3 No person shall operate or permit to be operated any non-powered vessel on the waters of this state in violation of this rule.

**DRAFT MODEL ACT on USE PERMITS FOR NON-POWERED VESSELS**

1 Section 1. [*Short Title.*] This act may be cited as the Use Permit for Non-Powered Vessels Act.

1 Section 2. [*Applicability.*] The provisions of this act apply to non-powered vessels that are  
2 operated on [insert the applicable property or general waters of the state].  
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1 Section 3. [*Definitions.*] As used in this act:

2 (1) “Commission” means [insert name of commission/authority designated by the legislative  
3 body to administer the act].

4 (2) “Non-powered vessel” means a watercraft propelled by human or wind power and that is  
5 operated or capable of being operated as a means of transportation on the water.

6 (3) “Owner” means a person, other than a secured party, having the property rights in a non-  
7 powered vessel. “Owner” includes a person entitled to use or possess a non-powered vessel  
8 subject to a security interest in another person, but does not include a lessee under a lease not  
9 intended as security.

10 (4) “Vessel” means non-powered vessel for purposes of this act.

1 Section 4. [*Use of Property by Unregistered Non-Powered Vessels.*]

2 (a) The commission shall, by regulations adopted within [one (1)] year after the effective date  
3 of this act, provide for issuance of use permits, valid for [one (1) or two (2)] years, for non-  
4 powered vessels which are not registered in accordance with [insert appropriate state statute] to  
5 use commission property.

6 (b) On and after the effective date of the regulations promulgated hereunder by the  
7 commission, the owner of a non-powered vessel that uses commission property shall have the  
8 option of registering the vessel or purchasing a use permit issued under the authority of this  
9 section.

10 (c) The commission shall establish fees for use permits issued under this section, which fees  
11 shall not exceed the fees charged by the [insert name of other agency or department if  
12 appropriate] for [launch permits at other state properties]. The commission shall, in cooperation  
13 with the [insert name of other agency or department if appropriate], provide for reciprocal or  
14 joint use launch permits for non-powered vessels to use both commission and [insert name of  
15 other agency or department, if appropriate] state properties and access areas.

1 Section 5. [*Effective Date.*] [Insert effective date.]

**DRAFT ADMINISTRATIVE RULES – ISSUANCE OF USE PERMITS FOR NON-POWERED VESSELS**

**Statutory Authority:** [insert citation for statute authorizing promulgation of rules regarding issuance of use permits (Section 4(a) of Draft Model Act on Use Permits for Non-Powered Vessels)]

**Section 1. General Provisions**

**100 Policy Statement.**

[Insert if appropriate]

**101 Definitions.** As used in these rules, unless otherwise required by context:

101.1 “Commission” has the meaning ascribed to it in [insert citation for statute (Section 3 of Draft Model Act on Use Permits for Non-Powered Vessels)].

101.2 “Hull identification number” has the meaning ascribed to it in [insert citation for statute (Section 3 of Draft Model Act on Use Permits for Non-Powered Vessels)].

101.3 “Non-powered vessel” has the meaning ascribed to it in [insert citation for statute (Section 3 of Draft Model Act on Use Permits for Non-Powered Vessels)].

101.4 “Owner” has the meaning ascribed to it in [insert citation for statute (Section 3 of Draft Model Act on Use Permits for Non-Powered Vessels)].

101.5 “Vessel” has the meaning ascribed to it in [insert citation for statute (Section 3 of Draft Model Act on Use Permits for Non-Powered Vessels)].

**102 Use permits for non-powered vessels.**

102.1 The commission and issuing agents designated by the commission will issue use permits for non-powered vessels when their owners choose not to register them to use commission properties and access areas.

102.2 Use permits will be issued in the form of decals, showing the expiration date. Decals shall be clearly displayed on both sides of the hull amidships below the gunwale. For low-volume non-powered vessels, such as kayaks, decals shall be placed on both sides of the deck amidships.

102.3 An applicant for a use permit shall provide the following information:

- (a) The name, address and telephone number of the applicant.
- (b) A description of the vessel, including make, model, and year.
- (c) The Hull Identification Number (HIN) of the vessel, if readily available.

102.4 A use permit is issued for a specific non-powered vessel. It is unlawful to transfer a use permit issued for a specific vessel to another vessel. A use permit remains effective for the vessel for which it is issued even if ownership of the vessel is changed during the term of the permit.

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102.5 Use permits are valid for [one (1) or two (2)] years. The expiration date of a [one (1)-] year use permit is December 31 of the year for which it is issued. The expiration date of a [two (2-)] year use permit is December 31 of the second year for which it was issued.

102.6 The initial fees for the use permits are [insert fee amount] for a [one (1-)] year permit and [insert fee amount] for a [two (2-)] year permit. The [head of commission/authority] may, by notice published in the [state publication for notices of administrative rules/regulations], adjust these fees so that they remain the same as the resident price for [one (1-)] year and [two (2-)] year vessel launching permits as established in the schedule of fees published, and from time-to-time revised, by the [insert name of other agency or department] for [other state properties and access areas]. Whenever a use permit authorized by this section is issued by an issuing agent other than the commission or [insert other state department], the issuing agent may charge an issuing agent fee not to exceed [insert fee amount] per transaction for issuing the permit.

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