

**LCB File No. R135-04**

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

**COMMISSION GENERAL REGULATION NUMBER 329**

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

**Authority:** § 1, NRS 488.045, 488.059, 488.400, 501.181, 501.243.

**Notice of Intent:** June 22, 2004

**Workshop Date:**

**Adoption Date:**

Explanation NAC 488.435 Prima facie evidence of reckless or negligent operation.

**Section 1.** NAC 488.435 is hereby amended to read as follows:

488.435 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 ~~[or swim platform]~~ of a vessel propelled by machinery and 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 with any person sitting, standing, riding or hanging onto a swim platform or swim ladder attached to the motorboat.*

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**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Hearing for The (Adoption/Amendment/Repeal) of Regulations of The  
Nevada Board Of Wildlife Commissioners**

The Board of Wildlife Commissioners will hold a public hearing \_\_TBA\_\_ a.m., on \_\_TBA\_\_ at the \_\_\_\_\_ . The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulation CGR 329 (LCB File R135-04) pertaining to Chapter 329 of the Nevada Administrative Code.

1. The need for and purpose of the proposed regulation: (Description of regulation)  
The National Association of State Boating Law administrators Association passed a model act in 2003 to address the issue of carbon monoxide poisoning of persons “teak surfing”. This phenomena is widespread particularly among the western states but nationally as well. Teak surfing or platform dragging is the activity of having swimmers lay in the water at the stern of a vessel and hold onto swim ladders or swim platforms while being dragged along behind the vessel while underway. This is reckless operation in its strictest sense for two reasons. It places the swimmer in direct contact with exhaust fumes that well exceed the National Institute of Safety and Health exposure to carbon monoxide poisonings. CO levels are so high in this location that as few as two breaths could render a person unconscious and unable to survive the exposure. This also places the swimmer in close proximity to the propulsion, for example the propeller or in the case of jet drives, close to the impeller. This activity is reckless in that it places the swimmers at risk of life or limb. This regulation would simply specify that it is prima facie evidence of reckless operation.

2. Text of the proposed regulation: SEE ATTACHED REGULATION.

3A. The estimated economic effect of the regulation on the business which it is to regulate:

- (a) Adverse effect - N/A
- (b) Beneficial effect – N/A
- (c) Immediate effect –N/A
- (d) Long-term effect – N/A

3B. The estimated economic effect of the regulation on the public which it is to regulate:

- (a) Adverse effect – N/A
- (b) Beneficial effect – N/A
- (c) Immediate effect – N/A
- (d) Long-term effect – N/A

4. Estimated cost to the Department of Wildlife for enforcement of the proposed regulation: Routine patrol would identify violations that are already being observed, usually with a warning about the hazards.

5. A description of and citation to any regulations of other state or local government agencies which the proposed regulation overlaps or duplicates, NONE . The duplication or overlapping is necessary because . If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency: .

6. If the regulation is required pursuant to federal law, a citation and description of the federal law  
N/A

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:  
N/A

8. The proposed regulation establishes a new fee or increases an existing fee: X No \_\_\_ Yes

Persons wishing to comment upon the proposed action of the Board of Wildlife Commissioners may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Secretary, Board of Wildlife Commissioners, 1100 Valley Road, Reno, Nevada 89512. Written submissions must be received by the Secretary, Board of Wildlife Commissioners, at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Wildlife Commissioners may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the regulations to be adopted will be available for inspection and may be copied at the following locations:

Nevada Department of Wildlife  
1100 Valley Road  
Reno, Nevada  
(775) 688-1500

Western Region Field Office  
380 W. "B" Street  
Fallon, NV 89406  
(775) 423-3171

Eastern Region  
60 Youth Center Road  
Elko, NV 89801  
(775) 777-2300

Southern Region  
4747 Vegas Drive  
Las Vegas, NV 89108  
(702) 486-5127

The regulations will be available for inspection at all county main public libraries. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations are prepared and published monthly by the Legislative Council Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the above locations.