

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources**
(DLS Control No. 15-405)

Overview and Legal and Fiscal Impact

This regulation establishes the boundary coordinates and description of the Edgewater Avenue area of the Ocean City – Back Bay Areas and establishes a speed limit for the area during the boating season.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Boating – Speed Limits and Operation of Vessels: Ocean City – Back Bay Areas:
COMAR 08.18.18.06

Legal Analysis

Background

Under existing regulations, the Department of Natural Resources has established speed limits for boats in much of the Ocean City – Back Bay Areas. However, the existing regulations do not include a speed limit for the delineated Edgewater Avenue area.

According to the department and public testimony offered during the Maryland Boat Act Advisory Committee meeting on October 22, 2015, the establishment of a speed limit for boats in the congested Edgewater Avenue area is necessary to address safety concerns, comply with the Nongame and Endangered Species Conservation Act, and limit damage to bulkheads and docked boats. The department already has tried placing a variety of warning markers, buoys, and signs about wake responsibility in the area, but those efforts have not had a significant effect and compliance is generally better with established speed limits.

The State’s Nongame and Endangered Species Conservation Act prohibits the “take” of endangered wildlife except under specified conditions. “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The department advises that nests of the black skimmer (*Rynchops niger*), which is currently listed by the State as an endangered species, are at risk from large wakes in the designated area.

Summary of Regulation

This regulation delineates the boundary of the Edgewater Avenue area of the Ocean City – Back Bay Areas using global positioning system coordinates, surveys, and current charts. The regulation also establishes a six knot speed limit for the area during the boating season.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 8-703, 8-704, and 10-2A-02 of the Natural Resources Article as statutory authority for the regulation. Section 8-703 requires the department to designate and mark channels in the waters of the State. Section 8-704 establishes the broad authority of the department to adopt regulations to carry out the provisions of the State Boat Act. Section 10-2A-02 sets forth the policy and legislative intent underlying the Nongame and Endangered Species Conservation Act, including the finding that species of wildlife normally occurring and found to be threatened or endangered within the State should be accorded the protection necessary to maintain and enhance their numbers.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

In response to questions from the Department of Legislative Services, staff for the department discovered that part of the Statement of Purpose for the regulation was omitted from the document submitted for publication. Accordingly, the department has submitted a substitute page that includes the additional purposes of ensuring the safety of vessels “drift fishing” in the channel and of riparian owners and their property.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Kathryn H. Selle – (410) 946/(301) 970-5350

Fiscal Analysis: Scott D. Kennedy – (410) 946/(301) 970-5510