

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/11/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/22/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

08 18 01 03

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number

Lisa A Eutsler 410-260-8107

Mailing Address

Tawes State Office Building, 580 Taylor Avenue, C-4

City State Zip Code

Annapolis MD 21401

Email

lisa.eutsler@maryland.gov

5. Name of Person to Call About this Document Telephone No.

Michael Grant 410-260-8013

Email Address

Michael.Grant@Maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: November 30, 2015.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Rachel Eisenhower, Assistant Attorney General, (telephone #410-260-8355) on December 9, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Mark J. Belton

Title

Secretary

Telephone No.

410-260-8100

Date

December 9, 2015

Title 08
DEPARTMENT OF NATURAL RESOURCES
Subtitle 18 BOATING--SPEED LIMITS AND OPERATION OF VESSELS
08.18.01 General

Authority: Natural Resources Article, §§8-101, 8-703, and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of the Maryland Department of Natural Resources proposes to amend Regulation .03 under COMAR 08.18.01.

Statement of Purpose

The purpose of this action is to correct technical errors in existing definitions and to add definitions for clarity and consistency for the controlled water ski, public bathing beaches and swimming areas and the designated rowing areas.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2016
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
Waterway Improvement Fund
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
Funds are currently budgeted.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
N/A
- G. Small Business Worksheet:

Attached Document:

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

Chapter 01 General

Authority: Natural Resources Article, §§8-101, 8-703, and 8-704, Annotated Code of Maryland

.03 Definitions.

- A.-B. (text unchanged)
- [(1) "Artificial Ballast" means auxiliary or portable tanks or weights which distribute the weight in a vessel causing it to produce a large wake at slow speeds for the purpose of wake surfing.
- (2) "Boat speed" means speed through the water.
- (3) "Channel" means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.
- (4) "Controlled ski area" means an area marked by the Department which encompasses a slalom ski course which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended.
- (5) "Department" means the Department of Natural Resources.
- (6) "Designated rowing area" means an area which is designated by the Department for rowing activities by individuals in rowing shells or similar devices.
- (7) "Motorboat" means a vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.
- (8) "Operate" means to navigate or otherwise use a motorboat or vessel.
- (9) "Permitted beach area" means an area recognized by the Maryland Department of the Environment (MDE) that provides access for the public, community, or homeowner's association to the waters of the State, and used

exclusively for swimming or bathing and is in compliance with a MDE permitted beach as defined in COMAR 26.08.09.01.

(10) "Person" includes:

(a) The federal government, State, any county, municipal corporation, or other political subdivision of the State, or any of their units;

(b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or

(c) A partnership, firm, association, public or private corporation, or any other entity.

(11) "Slalom ski course" means an area approximately 850 feet in length by 75 feet in width, marked by inflated balls or bladders secured to anchors using flexible hose for the top 3 feet of connection, containing a maximum of 26 balls or bladders, and which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended.

(12) Speed Limits.

(a) "Restricted 6 knots (6.9MPH)" means a person may not operate or give permission to operate a vessel more than 17 feet in length:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To cause an objectionable or excessive wake.

(b) "6 knots (6.9 MPH)" means a person may not operate or give permission to operate a vessel:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To tow an individual on a ski, aquaplane, or similar device.

(c) "20 knots (23 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 20 knots (23 statute miles per hour or 42.6 kilometers per hour).

(d) "26 knots (30 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 26 knots (30 statute miles per hour or 55.6 kilometers per hour).

(e) "35 knots (40.25 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 35 knots (40.25 statute miles per hour or 74.5 kilometers per hour).

(f) "Minimum wake zone" means a person may not operate or give permission to operate a vessel in excess of the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(g) "Idle speed" means the operation of a vessel at the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(13) "Steerage" means the minimum rate of motion required for the steering apparatus (rudder or motor) of a vessel to have effect.

(14) Time Periods.

(a) "All times" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(b) "All year" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(c) "Boating season" means the period beginning at 12:01 a.m. each April 15, and ending at 12 midnight each succeeding October 15.

(d) "Nonboating season" means the period beginning at 12:01 a.m. each October 16, and ending at 12 midnight each succeeding April 14.

(e) "Saturdays, Sundays, and State holidays" means the period beginning at 12:01 a.m. each Saturday, and ending at 12 midnight each succeeding Sunday, and during the period beginning at 12:01 a.m. and ending at 12 midnight each holiday officially recognized by the State.

(f) "Sunrise to sunset" means the period during the daytime hours beginning at sunrise and ending at sunset, as computed by the U.S. Naval Observatory, Washington, D.C.

(g) "Sunset to sunrise" means the period during the nighttime hours beginning at sunset and ending at sunrise, as computed by the U.S. Naval Observatory, Washington, D.C.

(h) "Weekdays" means the period beginning at 12:01 a.m. on Monday and ending at 12 midnight the following Friday.

(15) Vessel.

(a) "Vessel" means any type of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice.

(b) "Vessel" includes:

(i) The vessel's motor, spars, sails, and accessories; and

(ii) Ice boats.

(16) "Wake Surfing" means free riding on a device similar to a surfboard behind an artificially ballasted boat at slow speeds (9—14 mph).

(17) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.]

- (1) "Act" means the Federal Boat Safety Act of 1971 (85 Stat. 213 46 U.S.C. 1451, et seq.)
- (2) "Arc of swing" means the circumference of the circle the radius of which is formed by the mooring line and the chain and the vessel.
- (3) "Army Corps Permit for Controlled Water Ski Course" is a legal document issued by the US Army Corp of Engineers permitting the applicant to place anchors or similar devices on the bottom of State waters. The permit may contain specific requirements that shall be followed.
- (4) "Artificial Ballast" means auxiliary or portable tanks or weights which distribute the weight in a vessel causing it to produce a large wake at slow speeds for the purpose of wake surfing.
- (5) "Boat speed" means speed through the water.
- (6) "Certificate" means any certificate of number.
- (7) "Certificate of title" means that certificate issued upon satisfactory proof of ownership made by an applicant to the Department.
- (8) "Channel" means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.
- (9) "Coach Boat" means a vessel that accompanies a racing shell or racing scull that trains an individual crew and carries appropriate safety rescue equipment for the racing shell or racing scull.
- (10) "Controlled ski area". means an area marked by the Department which encompasses a slalom ski course which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.
- (11) "Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels, or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.
- (12) "Department" means the Department of Natural Resources.
- (13) "Designated rowing area" means an area which is designated by the Department for rowing activities by individuals in rowing shells or similar devices.
- (14) "DNR Controlled Water Ski Sticker" is a sticker issued by the Department to a Water Ski Vessel and shall remain on the vessel unless the vessel is sold or modified.
- (15) "Group moorings" means the mooring by a person of three or more vessels.
- (16) "Immediate family" means spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, son-in-law, father-in-law, mother-in-law, daughter-in-law, grandson, granddaughter, stepfather, stepmother, halfbrother, halfsister, stepson, or stepdaughter. The term includes persons so related by virtue of adoption.
- (17) "Individual moorings" means the mooring by a person of not more than two vessels.
- (18) "Issuing authority" means either a state that has a U.S. Coast Guard approved numbering system or the Coast Guard where a number system has not been approved.
- (19) "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.
- (20) "Modified" means a change to a vessel with a DNR Controlled Water Ski sticker by any of the following means: adding more than 750 pounds of ballast by any means that causes the vessel to create a wake that exceeds 6 inches, measured at a point on the closest shore; removal of the towing pylon, swim platform, rear facing seat, or mirror; or modifying the vessel from its overall original manufactured dimensions so that it is no longer capable of maneuvering the established course without damaging the required markers.
- (21) "Mooring" means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in the waters of the State. It does not include fixed piers connected to the shore or accessory structures directly related thereto that are subject to separate State approval procedures.
- (22) "Motorboat" means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.
- (23) "Operate" means to navigate or otherwise use a motorboat or vessel.
- (24) "Operator" means the person who operates or has charge of the navigation of a vessel.
- (25) "Owner" means a person, other than a lien holder, having property in or title to a vessel. The term includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.
- (26) "Person" includes:
- (a) The federal government, State, any county, municipal corporation, or other political subdivision of the State, or any of their units;
 - (b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or
 - (c) A partnership, firm, association, public or private corporation, or any other entity.
- (27) "Public access point" means waterfront property open to the public to gain access to tidal waters.

(28) "Public Bathing Beaches" means areas recognized by the Maryland Department of the Environment (MDE) as defined in COMAR 26.08.09.

(29) Purchase Price

(a) "Purchase price" means, for vessels sold by manufacturers, brokers, or dealers, the certified gross purchase price of the vessel and its equipment in the case of sales of new vessels and the resale of used vessels.

(b) "Purchase price" means, for all other transactions, the total purchase price if verified by means of a certified bill of sale approved by the Department, or that valuation shown in a national publication of used vessels adopted for use by the Department, with the Department having discretionary power in determining the valuation.

(30) "Racing Shells" is a manually propelled vessel that is solely for competitive racing recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(31) "Racing Sculls" is a manually propelled vessel that is solely for competitive racing recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(32) "Riparian property owner" means a person possessing riparian rights, specifically including the right to gain access to tidal water.

(33) "Sale" is defined pursuant to §§2-106(1) and 2-401(20) of the Uniform Commercial Code as amended.

(34) "SKI Jump Course" means an area which includes a water ski jump ramp. The water ski jump ramp should be a minimum distance from shore of 125 feet, the minimum width of the body of water at the jump is 275 feet. The jump course includes boat guides and 150 m, 180 m, and 210 m buoys is approximately 920 feet long. Approximately 2,000 feet is the minimum straight distance needed for the jump course and ride out area. The jump course begins with the 180 meter cut out buoy and ends with the 100 meter end course.

(35) "Slalom SKI Course" means an area approximately 850 feet in length by 75 feet in width, marked by inflated balls or bladders secured to anchors using flexible hose for the top 3 feet of connection, containing a maximum of 26 balls or bladders, and which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.

(36) Speed Limits

(a) "Restricted 6 knots (6.9MPH)" means a person may not operate or give permission to operate a vessel more than 17 feet in length:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To cause an objectionable or excessive wake.

(b) "6 knots (6.9 MPH)" means a person may not operate or give permission to operate a vessel: (i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or (ii) To tow an individual on a ski, aquaplane, or similar device.

(c) "20 knots (23 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 20 knots (23 statute miles per hour or 42.6 kilometers per hour).

(d) "26 knots (30 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 26 knots (30 statute miles per hour or 55.6 kilometers per hour).

(e) "35 knots (40.25 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 35 knots (40.25 statute miles per hour or 74.5 kilometers per hour).

(f) "Minimum wake zone" means a person may not operate or give permission to operate a vessel in excess of the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(g) "Idle speed" means the operation of a vessel at the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(38) "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

(39) "Steerage" means the minimum rate of motion required for the steering apparatus (rudder or motor) of a vessel to have effect.

(40) "Swim Beach Area" means an area inside a Public Bathing Beach that is marked with US Coast Guard permitted boat exclusion markers for a swim area, and the owner or operator reserves the area solely for bathing, swimming or other public water contact activities. The area shall be in compliance with a MDE permitted beaches as defined in COMAR 26.08.09.

(41) "Tidal waters" means those waters of the State affected by the ebb and flow of the tide.

(42) Time Periods

(a) "All times" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(b) "All year" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(c) "Boating season" means the period beginning at 12:01 a.m. each April 15, and ending at 12 midnight each succeeding October 15.

(d) "Nonboating season" means the period beginning at 12:01 a.m. each October 16, and ending at 12 midnight each succeeding April 14.

(e) "Saturdays, Sundays, and State holidays" means the period beginning at 12:01 a.m. each Saturday, and ending at 12 midnight each succeeding Sunday, and during the period beginning at 12:01 a.m. and ending at 12 midnight each holiday officially recognized by the State.

(f) "Sunrise to sunset" means the period during the daytime hours beginning at sunrise and ending at sunset, as computed by the U.S. Naval Observatory, Washington, D.C.

(g) "Sunset to sunrise" means the period during the nighttime hours beginning at sunset and ending at sunrise, as computed by the U.S. Naval Observatory, Washington, D.C.

(h) "Weekdays" means the period beginning at 12:01 a.m. on Monday and ending at 12 midnight the following Friday.

(43) "USCG Permitted buoys" is a legal document issued by the US Coast Guard permitting the applicant to place buoys or markers on navigable waters to mark an area.

(44) "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

(45) "Vessel" means any type of watercraft, other than a seaplane that is used or capable of being used as a means of transport on the water or ice as defined in 1 U.S.C. 3, and as amended by any subsequent USCG determinations. Ice boats are regarded as watercraft. The term includes the vessel's motor, spars, sails, and accessories.

(46) "Vessel number" means the USCG documentation number or the number issued by a state numbering system.

(47) "Wake Surfing" means free riding on a device similar to a surfboard behind an artificially ballasted boat at slow speeds (9—14 mph).

(48) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

(49) "Week" means any 7 consecutive days.

MARK J. BELTON
Secretary Of Natural Resources