

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Natural Resources**
(DLS Control No. 15-422)

Overview and Legal and Fiscal Impact

This regulation, among other things, authorizes the Department of Natural Resources to designate controlled water ski areas in the State and specifies requirements for establishing and using these areas. Additionally, the regulation authorizes the department to (1) issue ski stickers to vessels that intend to use controlled water ski areas and (2) designate public bathing beaches.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Natural Resources:

Boating: Special Uses: COMAR 08.04.16.01, .02, and .03

Legal Analysis

Background

The Maryland Boat Act Advisory Committee was established as part of the Maryland State Boat Act in 1960. The purpose of the committee is to make recommendations to the Secretary of the Department of Natural Resources on boating regulation requests. Members of the committee include boaters and representatives from different water use organizations.

The committee considered this regulation at its December 2015 meeting.

Summary of Regulations

The regulation authorizes the department to designate a controlled water ski area in waters of the State. The controlled water ski area must meet certain requirements established by the American Water Ski Association, and the area must be permitted by the U.S. Army Corps of Engineers (Army Corps). The holder of the Army Corps permit must mark and maintain the ski slalom course in the controlled water ski area in accordance with specified federal standards. Only a vessel that displays a department-issued ski sticker may use the ski slalom course or exceed the speed limit for the controlled water ski area. The regulation prohibits operation of a vessel in a ski slalom course on specified days and times of the year or when another vessel is using the

course or assisting a fallen skier on the course. The department may remove the course and require a new Army Corps permit if the regulations or the Army Corps permit is violated.

The regulation authorizes the department to issue a ski sticker for qualifying vessels, establishes the duration of validity for the ski sticker, authorizes the Secretary of Natural Resources to designate qualified individuals who may request a sticker, and specifies the types of vessels that may request a sticker. The sticker must be affixed to the vessel, and the department may revoke the sticker for a violation of the regulation.

The regulation also authorizes the department to designate public bathing beaches, and requires that the public bathing beach be in compliance with beaches permitted by the Maryland Department of the Environment as a public bathing beach under COMAR 26.08.09.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 8-703 and 8-704 of the Natural Resources Article as statutory authority for the regulations. Section 8-703 authorizes the department to administer the provisions of the State Boat Act, including developing plans for the improvement and promotion of the waters of the State for recreational purposes. Section 8-704 authorizes the department to adopt regulations necessary to carry out the provisions of the State Boat Act.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the department agree to make the following changes to the regulations:

- in Regulation .01C, altering the tabulation to clarify that the holder of an Army Corps permit is responsible for marking and maintaining the course;
- in Regulation .01C, adding a cross-reference to ski sticker requirements in Regulation .02; and
- in Regulation .03, clarifying that the department may designate swim beach areas that must be in compliance with Maryland Department of the Environment requirements for public bathing beaches.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

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

Contact Information

Legal Analysis: Crystal L. Lemieux – (410) 946/(301) 970-5350

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