

MARYLAND REGISTER

## Emergency Action on Regulations

<b>TO BE COMPLETED BY AELR COMMITTEE</b>	<b>EMERGENCY Transmittal Sheet</b>	<b>TO BE COMPLETED BY DSD</b>
Date Received by AELR Committee		Date Filed with Division of State Documents
05/06/2015		
Emergency Status Approved		Document Number
_ -Yes _ -No		Date of Publication in MD Register
Emergency Status Begins On		
Emergency Status Ends On		
Name of AELR Committee Counsel		

### 1. COMAR Codification

**Title Subtitle Chapter Regulation**

08 18 40 01, .02, .03, .04, .05, .06, .07

### 2. Name of Promulgating Authority

Department of Natural Resources

### 3. Name of Regulations Coordinator

Lisa A Eutsler

### Telephone Number

410-260-8107

### Mailing Address

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

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Annapolis	MD	21401

### Email

[lisa.eutsler@maryland.gov](mailto:lisa.eutsler@maryland.gov)

**4. Name of Person to Call About this Document**  
Michael Grant

**Telephone No.**  
410-260-8013

**Email Address**  
Michael.Grant@Maryland.gov

**5. Check applicable items:**

- New Regulations
- Amendments to Existing Regulations
- Repeal of Existing Regulations
- Incorporation by Reference of Documents Requiring DSD Approval

**6. Date Requested for Emergency Status to Begin:** May 6, 2015

**Date Requested for Emergency Status to Expire:** October 31, 2015

**7. Agency Will Take the Following Action on These Regulations**

- Promulgate them in accordance with State Government Article, §§ 10-101 -- 10-126
- Allow them to expire

**8. Is there proposed text which is identical to emergency text:**

- Yes - No

**9. Check the following item if it is included in the attached document:**

- 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.)

**10. Reason for Request for Emergency Status**

This renewed request is to ensure safe operation of a type of vessel new to Maryland waters known, generally, as "jet pack" or "jet propelled" vessels. The Department of Natural Resources (DNR) requests the reimplemention of the 2014 emergency regulation regarding the personal and professional use of these vessels to allow commercial livery operators the opportunity to continue with their business plan for the summer of 2015 and simultaneously study the effects of the vessels on the waters of the State. While the vessels have been in use in Florida, Texas, Arizona, and on the West Coast, Maryland waters offer unique situations, which may pose issues with safety, environmental impacts, effects on personal and private property and the rights of citizens to recreate on our waters. The Secretary requests the emergency regulations and a 180-day study period culminating with a public hearing in the fall. The DNR and the commercial livery operators developed the emergency regulations cooperatively. The operators are in agreement with the need for regulations specific to the safe operation of these vessels. During the initial 2014 emergency study period, issues arose and the Department addressed them with the NRP and livery operators. In addition, the Deep Creek Lake Policy & Review Board expressed concerns with these vessels operating on the lake and those concerns are addressed in this emergency regulation request.

**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 Mark Talty, Assistant Attorney General, (telephone #410-260-8352) on May 5, 2015. A signed 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**

May 6, 2015

**Title 08**

**DEPARTMENT OF NATURAL RESOURCES**

**Subtitle 18 BOATING--SPEED LIMITS AND OPERATION OF VESSELS**

**08.18.40 JetPack Vessel**

Authority: Natural Resources Article, §§8-704, 8-701(m) and 8-712.2, Annotated Code of Maryland

**Notice of Emergency Action**

□

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to adopt COMAR 08.18.40.01-.07.

**Emergency status began:**

**Emergency status expires:**

**Comparison to Federal Standards**

There is no corresponding federal standard to this emergency action.

**Estimate of Economic Impact**

The emergency action has no economic impact.

**Economic Impact on Small Businesses**

The emergency action has a meaningful economic impact on small business. An analysis of this economic impact follows.

This regulation will allow commercial livery operators the opportunity to continue with their business plans for the summer of 2015 and simultaneously study the effects on the vessels on the waters of the State. This should have a positive economic impact on the local economy.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2015

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 for marking waterways.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Response to small business worksheet:

Attached Document:

---

**Title 08**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF**  
**VESSELS**

**Chapter 40 JetPack Vessel**

*Authority: Natural Resources Article, §§8-704,8-701(m), and 8-712.2, Annotated Code of Maryland*

**.01 Scope.**

- A. *The regulations of this chapter govern the use of jetpack vessels on all waters of the State.*
- B. *JetPack vessels shall comply with all laws and regulations governing Class A vessels including but not limited to:*
  - (1) *Registration;*
  - (2) *Operation; and*
  - (3) *Navigation.*
- C. *JetPack vessels operated for recreational or commercial (“for hire”) uses are subject to all boating safety laws, unless otherwise noted in these regulations.*

**.02 Purpose.**

*The purpose of this chapter is to develop comprehensive safety standards and registration requirements for jetpack vessels operated on the waters of the State.*

**.03 Definitions.**

- A. *In this chapter the following terms have the meanings indicated.*
- B. *Terms Defined.*
  - (1) *“Boat unit” refers to the portion of the jetpack vessel that contains the jet pump and water intake valve(s). The boat unit includes:*
    - (a) *A separately registered personal watercraft that is attached to the jet propelled device via a high pressure water hose; or*
    - (b) *A streamlined hull consisting of an engine and water pump that is connected to the jet propelled device via a high pressure water hose. The hull is not required to have seating for an operator or passenger.*
  - (2) *“Class A vessel” means a motorboat less than 16 feet in length as defined by the U.S. Coast Guard in 46 CFR § 24.10-17.*
  - (3) *“Department” refers to the Maryland Department of Natural Resources.*
  - (4) *“Helmet” means a water sport helmet.*
  - (5) *“Instructor” is any person that provides instruction regarding the operation and use of the jetpack vessel.*
  - (6) *“JetPack vessel” refers to a system whereby a jet propelled device is attached via a high pressure water hose to a boat unit that contains a jet pump. The boat unit intakes water and pumps it through the high pressure water hose to the jet propelled device, which is capable of elevating a rider from the surface of the water.*
  - (7) *“Jet Propelled Device” refers to the portion of the jetpack vessel where the rider is seated or standing including, but not limited to, jet propelled boards, jetpacks and water bikes.*
  - (8) *“Observer” means a person other than the rider that is responsible for the safety of the rider and all equipment involved in the jetpack vessel operation.*
  - (9) *“Operate” means to navigate or otherwise use a vessel, including movement that supports a person in the water or air.*
  - (10) *“Operator” is the person that controls the thrust of the jet propelled device. The operator may also serve as the rider.*
  - (11) *“Owner” means the person or entity that registers the jetpack vessel.*
  - (12) *“Personal watercraft” means a Class A vessel which:*
    - (a) *Has an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion;*
    - (b) *Is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel;*
    - (c) *Has the probability that the operator and passenger may, in the normal course of use, fall overboard; and*
    - (d) *Is designed with no open load-carrying area which would retain water.*
  - (13) *“Porpoise like motion” means the intentional operation of the jet propelled device under the surface of the water for a lateral distance of more than 2 feet and then resurfacing.*
  - (14) *“Rescue vessel” means a fully navigable motorized vessel sufficient to carry all of the people involved in the jetpack vessel activity.*

(15) "Restricted Visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar causes.

(16) "Rider" is the person actually on the jet propelled device. The rider may also serve as the operator.

#### **.04 Restrictions.**

A. A person may not operate or give permission to operate a jetpack vessel in a reckless or negligent manner as set forth in COMAR 08.18.01.05.

B. Except as provided in COMAR 08.04.08.03E, a person may not lease, hire, rent, operate, or give permission to operate a jetpack vessel on the waters of the State unless the observer, operator, and rider are 16 years old or older.

C. A person may not operate or give permission to operate a jetpack vessel unless:

(1) An observer is on a rescue vessel that is located at least 100 feet, but no more than 300 feet, away from the rider;

(2) The observer is responsible for the safety of only one rider at a time; and

(3) The observer meets Maryland requirements for a vessel operator.

D. All rescue vessels must have an "international orange" flag with a minimum size of 12"x 12" mounted on a pole that is at least 24 inches above the water. The flag must be visible, and remain visible, until the rider is safely secured on the rescue vessel and out of the jet propelled device.

E. All riders and instructors must display "international orange" markings of at least 12" x 12." The required markings may include a vest or flag that is attached to the rider and instructor.

F. A person may not operate or give permission to operate a jetpack vessel on the waters of the State unless the rider is wearing a helmet and a high impact Type I, Type II, or Type III personal flotation device approved by the U.S. Coast Guard.

G. Except as provided in COMAR 08.04.08.03I, a person may not operate or give permission to operate a jetpack vessel in any area of water with a depth of less than 6 feet unless the jet propelled device and rider maintain contact with the water at all times.

H. A person may not operate or give permission to operate a jetpack vessel in properly identified speed zones unless the jet propelled device and rider maintain contact with the water at all times. Properly identified speed zones include 6 knot zones and minimum wake zones.

I. A person may not operate or give permission to operate a jetpack vessel on the waters of the State within 100 feet in all directions, including vertically, of any bridge, structure, shore, wharf, pier, piling, mooring ball, buoy, vessel, or people in the water, unless the jet propelled device and rider maintain contact with the water at all times. This distance restriction does not apply to the instructor, the boat unit, or the operator.

J. A rider may not pick up any other person or use a tandem harness to include a second rider.

K. Except as provided in COMAR 08.18.40.05, a person may not operate or give permission to operate a jetpack vessel on the waters of the State in a porpoise like motion.

L. A person may not operate or give permission to operate a jetpack vessel on the waters of the State:

(1) Between sunset and sunrise; or

(2) In or near an area of restricted visibility.

M. A jetpack vessel operator, observer and rider born after July 1, 1972 shall carry a certificate of Boater Safety Education pursuant to Natural Resources Article, §8-712.2, Annotated Code of Maryland.

N. A person may not act as an observer, rider, operator, instructor or give permission to operate or observe a jetpack vessel on the waters of the State if they are:

(1) Under the influence of alcohol;

(2) Impaired by alcohol;

(3) So far impaired by any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or

(4) Impaired by any controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article unless the person is entitled to use the controlled dangerous substance under the laws of the State.

O. A person may not operate or give permission to operate a jetpack vessel on the waters of the State unless it is equipped with an engine cutoff switch.

P. All jetpack vessels must be registered in accordance with COMAR 08.04.03.

Q. A person who leases, rents, or otherwise receives consideration for the use of a jetpack vessel shall comply with COMAR 08.04.08.

#### **.05 Special Operating Conditions.**

In addition to the restrictions set forth in COMAR 08.18.40.04, a person may not operate or give permission to operate a jetpack vessel in a porpoise like motion unless the water depth is a minimum of 25 feet.

#### **.06 Registration of Boat Units.**

A. Boat units are vessels as defined by Natural Resources Article, § 8-701(s), Annotated Code of Maryland.

B. All boat units shall have a valid:

(1) Hull Identification Number; and

(2) Vessel Registration

**07. Violation of Regulations.**

*A person who violates any provision of this chapter is subject to the penalties and fines of Natural Resources Article, §8-2001, Annotated Code of Maryland.*

MARK J. BELTON, SECRETARY  
MARYLAND DEPARTMENT OF NATURAL  
RESOURCES