

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulation
Department of Natural Resources**
(DLS Control No. 15-063)

Overview and Legal and Fiscal Impact

This regulation authorizes the use of jetpack vessels on Deep Creek Lake and establishes specified time restrictions on the operation of the vessels.

The regulation presents no legal issue 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: Deep Creek Lake:
COMAR 08.18.33.02

Legal Analysis

Background

As defined in proposed COMAR 08.18.40.03B, “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.” The “boat unit” includes a separately registered personal watercraft or a streamlined hull consisting of an engine and a water pump. The rider sits or stands on the “jet propelled device.” According to the Department of Natural Resources, although these types of vessels have been in use in Florida, Texas, Arizona, and states on the West Coast, jetpack vessels are new to Maryland.

The department advises that it worked cooperatively with commercial livery operators to develop the 2014 emergency regulations for the safe operation of jetpack vessels and personal watercraft. Testimony regarding issues that arose during the 2014 boating season was presented and considered at the public meeting of the Maryland Boat Act Advisory Committee on October 22, 2014. The department further advises that the Deep Creek Lake Policy & Review Board has expressed concerns about the operation of jetpack vessels on the lake.

As a result, the department is proposing four concurrent emergency actions. In addition to these regulations, the proposed actions (1) establish regulations governing the personal and commercial use of jetpack vessels (COMAR 08.18.40); (2) make related revisions to the

regulations governing boat livery operations (COMAR 08.04.08); and (3) make related revisions to the regulations governing the use of personal watercraft (COMAR 08.18.02). Those emergency regulations are similar to previous emergency regulations that were implemented by the department for the 2014 boating season.

Summary of Regulation

This regulation specifically exempts the operation of a jetpack vessel from a prohibition against the operation on Deep Creek Lake of a vessel towing an individual who is attached to a parachute or other device that causes the individual to become airborne. The regulation also extends the existing time restrictions applicable to the operation of personal watercraft and air-cushioned vessels to the operation of jetpack vessels on the lake. Accordingly, except for vessels owned and operated by the State or local government, an individual may not operate a jetpack vessel on Deep Creek Lake from 11 a.m. to 4 p.m. on the Saturday, Sunday, or Monday of Memorial Day weekend, or on a Saturday, Sunday or holiday from July 1 through Labor Day.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 5-209, 8-703, and 8-704 of the Natural Resources Article as legal authority for this regulation. More specifically, § 5-209 authorizes the department to adopt regulations for, among other things, the maintenance of order, safety and traffic control on State lands. Section 8-704(a) establishes the broad authority of the department to adopt regulations necessary to carry out the provisions of the State Boat Act. As stated in § 8-702, the intent of the State Boat Act is to foster the development, use, and enjoyment of all the waters of Maryland. In addition, § 8-704(c)(1) requires the department to adopt regulations governing the numbering of vessels, safety equipment on vessels, and operations of vessels so that each vessel may be operated with equal freedom or under similar requirements as other vessels of that type or size on all waters of the State.

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

Reason for Emergency Status

The department requests emergency status to begin May 6, 2015 and continue through October 31, 2015. This emergency period is within normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The department indicates that emergency status is necessary for this regulation in order to allow commercial livery operators to continue with their business plans with respect to jetpack vessels for the summer of 2015, ensure safe operation of the vessels, and allow the simultaneous study of the effects of the vessels on State waters. The department further indicates that the study period will culminate with a public hearing.

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 a meaningful economic impact on small businesses in the State. The Department of Legislative Services disagrees. The department's assessment appears to be based on the impact of other emergency regulations being proposed concurrently that address the operation of jetpack vessels in the State in general. This regulation addresses the use of jetpack vessels on Deep Creek Lake, and the department indicates that there are currently no commercial jetpack livery operators on Deep Creek Lake.

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