

MARYLAND REGISTER

**Proposed Action on Regulations**

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

**1. Desired date of publication in Maryland Register: 8/7/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**  
08 04 08 01, .02, .03, .04

**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: May 4, 2015.
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:  
:  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

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

- Yes  No

If yes, corresponding proposed text published in:

- same issue
- future issue
- previous issue; it appeared in  
:  
(vol.) (issue) (page no's) (date)

Under Maryland Register docket no.: --E.

**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 Mark Talty, Assistant Attorney General, (telephone #410-260-8352) on June 25, 2015. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Mark Belton

**Title**

Secretary

**Telephone No.**

410-260-8100

**Date**

July 1, 2015

**Title 08**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Subtitle 04 BOATING**

**08.04.08 Boat Livery Operation**

Authority: Natural Resources Article, §§8-704, 8-712, and 8-712.2, Annotated Code of Maryland

**Notice of Proposed Action**

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The Secretary of the Maryland Department of Natural Resources proposes to amend Regulations .01 - .04 under COMAR 08.04.08.

**Statement of Purpose**

The purpose of this action is to ensure safe operation of a type of vessel new to Maryland waters known, generally, as "jet pack" or "jet propelled" vessels.

**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 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.

### **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, Maryland Department of Natural Resources - Boating Services Unit, 580 Taylor Avenue, E/4, Annapolis, Maryland 21401, or call 410-260-8013, or email to Michael.Grant@Maryland.gov, or fax to 410-260-8453. Comments will be accepted through September 8, 2015. A public hearing will be held. A hearing will be scheduled in the Fall.

### **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 for marking Maryland 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. Small Business Worksheet:

Attached Document:

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## **Title 08**

# **DEPARTMENT OF NATURAL RESOURCES**

## **Subtitle 04 BOATING**

## Chapter 08 [Boat]Livery Vessel Operation

Authority: Natural Resources Article, §§8-704[b], 8-712, and 8-712.2, Annotated Code of Maryland

### .01 [Boat] Livery Vessel Operation.

A. A livery [boat]vessel owner or his agent or employee may not permit any [boat]vessel to depart from his premises unless equipped, either by the livery owner or the person renting the [boat]vessel, with the lifesaving and safety equipment required by the Natural Resources Article and regulations adopted subsequent to it.

B. (text unchanged)

(1) Livery [boat]vessel owners shall keep a record of each [boat]vessel rented. The record shall show the:

(a) Maryland number of the [boat] vessel and horsepower of motor;

(b) Name and address of the person(s) [renting and the number of persons on board at the time of departure] *operating or riding on the vessel at the time of departure;*

(c)*Name and phone number of an emergency contact person not on board at the time of departure;*

[(c)](d) Date and time of departure and expected time of return; and

[(d)](e) Lifesaving and safety equipment on board, and by whom furnished.

(2) (text unchanged)

C. A livery [boat]vessel owner or his agent or employee may not rent or lease a [boat]vessel to [a person] *an operator* born after July 1, 1972, unless that [person] *operator* possesses a boating safety certificate as required in Natural Resources Article, §8-712.2, Annotated Code of Maryland.

### .02 (text unchanged)

A. In addition to Regulation .01 of this chapter, *a personal watercraft livery [operators] owner* shall:

(1) – (2) (text unchanged)

(3) Within 30 days of the effective date of COMAR 08.18.02, add to the rental contract a statement that the renter or operator has read and understands the personal watercraft regulations. This statement shall be signed by the renter [or] *and operator*, retained in the files of the livery operator for at least 30 days, and be made available to the Department upon request.

B. (text unchanged)

C. An operator of a personal watercraft rented from a livery [operator] *owner* is exempt from the requirements of Natural Resources Article, §8-712.2, Annotated Code of Maryland, if the livery [operator] *owner* has entered into a valid agreement with the Department.

D. In order to comply with the agreement in §C of this regulation, the livery [operator] *owner* shall:

(1) – (3) (text unchanged)

(4) Provide guides certified by the Department to oversee the [renters] *operators* of personal watercraft in those waters of the State determined by the Department as necessitating the use of guides for the safety of the public.

### .03 JetPack Livery Operations.

A. *In addition to Regulation .01 of this chapter, JetPack Vessel livery owner shall:*

(1) *Prominently display the jetpack vessel regulations in COMAR 08.18.40;*

(2) *Advise renters and riders to read COMAR 08.18.40 as applicable; and*

(3) *Within 30 days of the effective date of COMAR 08.18.40, add to the rental contract a statement that the renter and rider have read and understand the jetpack vessel regulations. This statement shall be signed by the renter and rider, retained in the files of the livery owner for at least 30 days, and be made available to the Department upon request.*

B. *A jetpack vessel livery owner, livery owner's agent, or employee may not permit any jetpack vessel to depart from the owner's premises unless the operator is an agent or employee of the owner that is trained and certified in the operation of jetpack vessels.*

C. *The jetpack vessel livery owner, livery owner's agent, or employee shall operate the jetpack vessel for all rentals.*

D. *A jetpack vessel livery owner, livery owner's agent, or employee that operates a jetpack vessel on tidal and navigable waters subject to the jurisdiction of the United States Coast Guard shall possess a valid United States Coast Guard license for the operation of an uninspected passenger vessel as defined in 46 U.S.C. § 2101(42)(B).*

E. *A jetpack vessel livery owner, livery owner's agent, or employee may not lease or rent a jetpack vessel unless the rider is 14 years old or older.*

F. *A jetpack vessel livery owner, livery owner's agent, or employee may not operate or give permission to operate a jetpack vessel on the waters of the State unless the rescue vessel used in livery operations has an international orange flag 12" x 12" in size mounted on a pole that is 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.*

G. *A jetpack vessel livery owner, livery owner's agent, or employee may not operate or give permission to operate a jetpack vessel on the waters of the State unless the rider is trained in the proper use of the jetpack vessel by the manufacturer of the vessel or its authorized representative.*

H. A jetpack vessel livery owner, livery owner's agent, or employee may not operate or give permission to operate a jetpack vessel on the waters of the State in Navigational channels, (federal or State) marked or unmarked channels.

I. Initiation of Operation

(1) A jetpack vessel livery owner, livery owner's agent, or employee may initiate operation of the jetpack vessel in an area of water with a depth of no less than 4 feet.

(2) After operation has been initiated, the operator shall move to an area of water with a depth of no less than 6 feet.

J. All jetpack vessel livery observers shall possess a valid First Aid and CPR Certificate.

**.04 Prohibited Areas.**

A. Personal watercraft (PWC) and jetpack vessels owned or leased by a livery vessel owner operating in Worcester County may not operate:

(1) In the Atlantic Ocean and the Ocean City Inlet at any time. All of the waters east of a line beginning at a point at the west end of the Second Street seawall, at or near Lat. 38° 19.572'N., Long. 75° 5.473' W., then running 230° (True) to a point on the shore of Assateague Island, at or near Lat. 38° 19.445'N., Long. 75° 5.668' W.

(2) At any time in the following areas:

(a) Herring and Turville Creeks. All of the waters of Herring and Turville Creeks west of a line beginning at a point on the south shore of an unnamed gut, at or near Lat. 38° 21.711' N., Long. 75° 7.072' W., then running 26° (True) to a point on the north shore of the gut, at or near Lat. 38° 21.745' N., Long. 75° 7.051' W.; and south of a line beginning at a point on the east shore of Herring Creek, at or near Lat. 38° 21.964' N., Long. 75° 7.251' W., then running 272° (True) to a point on the west shore of Herring Creek, at or near Lat. 38° 21.971' N., Long. 75° 7.609' W.

(b) Manklin Creek and St. Martin River. All of the waters of Manklin Creek and St. Martin River west of a line beginning at a point on the south shore of Manklin Creek, at or near Lat. 38° 22.401' N., Long. 75° 7.481' W., then running 10° (True) to a point at the eastern corner of a bulkhead, at or near Lat. 38° 22.738' N., Long. 75° 7.406' W., then running 34° (True) to a point on the shore on the southwest side of Isle of Wight, at or near Lat. 38° 23.392' N., Long. 75° 6.838' W.

B. A person who violates any provision of this regulation 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