



# Law Enforcement Alert

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## Water Jet Devices (WJD) Policy Considerations and Recommendations



### Introduction

The purpose of this policy is to assist states in handling issues associated with the rapid advancement of newer technologies and the continued innovation of watercraft, vessels, and devices. This often creates a need for national level coordination to maintain consistency between States on how to interpret and respond to new innovations being tested or created for use on the waterways. It is the intent of this policy to offer recommendations, specifically related to Water Jet Devices (WJD), on how current legal language may be sufficient to appropriately regulate this growing industry and issues to consider if a state is considering Water Jet Device specific regulations.

## Explanation of Scope

There are several types of water jet-driven vessel systems on the market that allow an operator to “fly” up to 30 feet above the water. These systems mainly consist of the boat unit (engine/jet pump), hose/control cables and the flight unit/pack.

The boat unit can be manned or unmanned. Some are PWCs with the hose/cables and flight units attached. Other boat units are streamlined hulls without seating. Here are a couple of the company websites that show examples of these systems <http://www.jetlev.com/> and <http://flyboard.com/>.

For the purposes of this bulletin, the acronym “WJD” includes Jetpaks™, Jetlevs™, Flyboards™, Jetovators, and other similar devices where individuals ride a hydro-powered apparatus above the surface of the water while connected to a personal watercraft (PWC) or other power source that supplies thrust to the WJD through a hose connecting the two units. When the boat unit and flight unit are connected, they are considered to be one vessel.

Keep in mind, states may have additional, specific regulations concerning PWC and by extension, WJD connected to a PWC. As a result, a state may require additional equipment or training for these operations that may exceed USCG requirements.

## Q&A

The WJD raise several different enforcement issues, such as: are they vessels, when does a passenger for hire situation exist, what are the registration and safety requirements, etc. Most states have current laws that are applicable to WJD and their operation. The following are answers to several anticipated questions:

### **Q. Are these considered “vessels?”**

**A.** Yes. These vessel systems are considered to be “vessels” by the USCG. Therefore, all navigation and boating safety requirements apply, including state specific registration, titling, and other boating laws/regulations.

### **Q. Are the users subject to safety equipment carriage requirements?**

**A.** Yes. Both types must comply with the general requirements for vessels. The PWC-based boat unit would also need to comply with any state regulations applicable to PWC specific requirements when used by a person riding on the PWC. For many states, these requirements will include PFD wear, lanyard use, hours of operation, PWC specific education, and operator age restrictions.

### **Q. Do the Navigation Rules apply to their use?**

**A.** Yes. Since both types are considered vessels, the Navigation Rules would apply to their operation.

### **Q. Are these exempted from having a HIN?**

**A.** No.

**Q. So other state boating laws apply to them?**

A. Yes. An example is a state that has insurance requirements for rental companies (liveries) renting PWC.

**Q. Who is considered the operator “where one is flying and one is riding?”**

A. The hose and control cables have a couple of different variations. One allows the individual flying to control the throttle, as well as the directional jets. This individual would be the sole operator of the vessel. The PWC boat unit can be configured for solo operation or for dual operation. This allows the individual flying to control the directional jets, but the throttle to be controlled by a second operator sitting on the boat unit or remotely via wireless control.

In the case of multiple operators for a single vessel, either or both would be responsible for the operation of the vessel. This would also apply to someone operating the vessel wirelessly by remote control. An example of multiple operators of a single vessel would be an offshore racing vessel with one individual working the throttles and the other steering the vessel.

**Q. What are the boating education requirements in the situation of multiple operators for a single vessel?**

A. Each individual operator must comply with the state’s applicable Boating Safety Education laws.

**Q. What are the considerations in the situation of multiple operators for a single vessel that is being rented?**

A. If one of the vessel operators is employed by the rental company, that individual is now operating a vessel for hire with passengers (the flyer). Typical commercial passenger for hire operations involve one passenger riding the levitation portion of the WJD controlling the directional movements and another individual or an operator controlling the thrust of the WJD either from the PWC or remotely via wireless control.

In many cases, the flyer has provided economic benefit or profit also known as “consideration,” to ride the device. Where consideration is present as a condition of carriage, the individual riding the WJD is considered a “passenger for hire” as defined in 46 USC 21011 and, therefore, the operator must hold a Coast Guard-issued Merchant Mariner Credential (MMC). At a minimum, the following three endorsements may be acceptable depending upon the location and type of operation: OUPV, OUPV Limited, and OUPV Restricted. The local Coast Guard Officer in Charge, Marine Inspection determines which of the three licenses are appropriate for the particular operation in question.

Exceptions to the passenger for hire situation are when the WJD is:

- (a) leased, rented or chartered to an individual for noncommercial personal use
- (b) operated by the WJD owner for their personal noncommercial use; and
- (c) used by the WJD owner for demonstration purposes.

In these instances the vessel is considered a recreational vessel.

## **Considerations and Recommendations for WJD specific regulation**

Although WJD vessels can be regulated using many current definitions and laws, due to their novel design and configuration, current and conventional vessel safety regulations may not fully address safety concerns unique to these vessel types, their operation, or individual state concerns. Some states have additional requirements for WJD or have limited their use and operation. These specialized regulations can exceed USCG requirements generally applicable to vessels. Many manufacturers and some rental companies have developed safety equipment, procedures and training for both the operators and passengers to address circumstances unique to these operations that also go beyond USCG requirements.

If a state is going to pursue specialized regulation, NASBLA encourages cooperative efforts with these boating interests and affected stakeholders.

NASBLA recommends that if states are considering WJD specific regulation that they also consider including them in their livery regulations or laws. Many states have livery requirements, some that are specific based on vessel type, such as PWC. Those requirements could be expanded to include WJD vessel specific operational issues, liability insurance, location specific safety concerns such as water depth or obstructions, livery employee training/education, and training for the operator on the WJD controls, communication methods, permitted and prohibited operations, and how to use the safety equipment.

NASBLA recommends that manufacturers consider the benefits of self-regulation and standardization within their industry. The topics to consider and develop would include positive flotation built into WJD backpacks/equipment, assessment of PFD flotation adequacy, assessment of gear quick release(s), power shut offs, and other disengagement mechanisms.

### **Considerations for other innovative watercraft designs**

There are examples of other water jet driven devices, such as Seabreacher, Kymera, and Jetsurf, which do not involve an operator “flying” above the water surface. Each of these would likely be considered vessels and possibly PWC, depending on an individual state’s definition. These vessels may operate at, above, or below the surface of the water.



The Seabreacher operates at the surface, it can dive underwater for brief periods of time (10 seconds to 1 minute), and can also launch above the surface of the water like a breaching whale. It is a vessel, but wouldn’t likely be considered a PWC as the operator rides “in” the vessel.

The Kymera and Jetsurf are powered body boards and surf boards, respectively. Again, both would likely be considered vessels, at least in most circumstances. An exception might include if they were operating in a surf zone. The operator of the Kymera lays flat on the board while the Jetsurf operator stands. The Jetsurf would likely meet the definition of PWC, while the Kymera might not, depending on a state’s definition of PWC and how the operator is positioned on the vessel.

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National Association of State Boating Law Administrators

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