

VESSEL PERMITTING

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1 P R O C E E D I N G S

2 MR. COUGH: Good evening. We'll be
3 starting in just a moment. We heard the
4 expectant hush in the room, so we'll be getting
5 going in just a minute.

6 Hi, everyone. Can you hear me? Is that
7 good? Thank you-all for coming here tonight.
8 It's after working hours for many people, and so
9 we're really happy that you took the time to come
10 out here and give us a chance to listen to you to
11 get your thoughts on where we should be going
12 with the Clean Boating Act.

13 The purpose of the meeting, first, is to
14 provide background information about the Clean
15 Boating Act, or CBA. The second is to explain
16 our approach for developing the management
17 practice that Congress required us to develop
18 under the law. And the third is to listen to
19 your ideas about how we should go about this,
20 which discharges to cover, what management
21 practices would make sense on a national scale,
22 and any other lessons you have for us there.

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1 And as we go about this, one thing that's
2 really important -- something that Jim Davis and
3 I were talking about a little earlier -- is
4 common sense. What makes sense for us all to be
5 good stewards of the water as we are recreation
6 boaters and come up with ideas that will work in
7 the Chesapeake, will work up in the Kennebec
8 River in Maine where I'm from, work in the Great
9 Lakes, Lake Tahoe, Gulf of Mexico, Hawaii. We've
10 got a lot of territory and then a wide range of
11 vessel types, from a 40-foot sailboat to -- all
12 the way down to a kayak. So there's a wide range
13 of vessel types, different discharges associated
14 with those vessel types, different locations,
15 different needs, so there's a lot of territory
16 there. And so finding common sense in that real
17 large territory is what we're aiming for.

18 The Clean Boating Act was passed by
19 Congress and signed into law by President Bush in
20 2008. And in passing the CBA, Congress intended
21 to do two things. One is to avoid the necessity
22 of regulating recreational vessels under Clean

1 Water Act permits like the big commercial vessels
2 and better manage the potential release of
3 pollutants in recreational vessels in order to
4 protect the aquatic environment.

5 And Congress recognized that there are a
6 lot of other things that are being done to
7 protect those waters across the country where the
8 bays, rivers, lakes, the whole range, the ocean,
9 all the runoff we get from all the nitrogen,
10 phosphorous, bacteria, fertilizer, toxic
11 chemicals, a range of things that come off the
12 land, whether from parking lots or back yards, or
13 farms, or wastewater treatment systems, septic
14 systems that aren't necessarily, you know,
15 working correctly, storm sewers, mining,
16 depending on where you are if it's a mine
17 relatively near a water body. So, the purpose of
18 the law was to ensure that recreational vessels
19 operated in a responsible -- environmentally
20 responsible manner.

21 And so it's our job to work with you and
22 others to figure out what's the best way to do

1 that. And so what becomes a common -- what are
2 the common sense practices we all can put out
3 that are clear, easy to understand, implementable
4 -- because if it's a nice idea but it doesn't
5 work, then the people aren't going to do it --
6 and build on what we learn from you and from
7 other people across the county who like to get
8 out on the water and have fun so that we can all
9 be good stewards of the waters and enjoy them,
10 protect them so that they're here to enjoy and
11 protect when our kids grow up, too, because some
12 of us might already have kids grown up. Mine are
13 almost there right now.

14 But when I grew up -- and just to put a
15 little personal story in. I'm from a small town
16 called Gardiner, Maine, 7,000 people, near
17 Augusta. And when I grew up on the Kennebec
18 River in the '50's and '60's, it was an open
19 sewer from the paper mills discharged there, from
20 everything else that came out of their wastewater
21 treatment plants -- or, no, excuse me, didn't
22 have them then. Anything else -- everything else

1 that came down at the river. And I went -- I
2 went canoeing a few times. It wasn't nearly as
3 nice as it is now. Clean Water Act passed in the
4 '70's. And when I'm up there, I go swimming,
5 like, and it's a lot of current on the river.
6 It's very tidal there, but except for like tannin
7 in the water and the bark and all that, it's
8 really good swimming there. And it's like
9 transformed. There's a lot of boating on that
10 river. Now there is -- right in my hometown
11 there's a place with a bunch of boats there.
12 There's another place across the river that
13 opened up that wasn't there when I was a kid. So
14 it's a lot better for everybody now.

15 It cost some money to put in some
16 controls on the land. And now we're not talking,
17 of course, about land-based discharges. We're
18 talking about these -- these vessels.

19 So, what makes sense? What is common
20 sense as we go forward. So, we're hoping to get
21 from you is what types of stewardship practices
22 do you think could be adopted on a national

1 scale. Thank you very much.

2 I turn it to -- back to our facilitator,
3 Doug.

4 MR. DOUG THOMPSON: Thank you, Paul. I
5 didn't know you're from Gardiner, Maine. Some
6 years ago I was in Belfast, Maine, and was having
7 a beer with a fisherman and asked him if he had
8 lived there his whole life, and he said, "Not
9 yet," which I thought was a very classic Maine
10 response.

11 So, my name is Doug Thompson. I'm a
12 mediator and facilitator with the Keystone
13 Center, and EPA asked us to come in and just help
14 moderate this meeting this evening. So I just
15 wanted to run through a couple of things by way
16 of introduction, and then we'll really get into
17 the heart of the discussion.

18 I would echo Paul's sentiment thanking
19 you for coming out on a Friday evening. We know
20 there are other attractions on a Friday night,
21 especially a Friday night with nice weather and
22 March Madness and other things going on.

1 So just quickly to kind of set the stage
2 for tonight's discussion, it's not a great deal
3 of mystery why we're here, but the key things for
4 this evening are to have an opportunity to learn
5 about the status of the Clean Boating Act and
6 what the anticipated next steps are at this
7 juncture, an opportunity for you to ask some
8 questions, if you have any, about what you hear
9 about the Clean Boating Act. And then we get
10 into the heart of the evening which is really a
11 chance for EPA to hear your thoughts and your
12 perspectives, both in general and also any
13 specific ideas you might have regarding potential
14 management practices pursuant to the Act.

15 And, you know, I think it was Ross Perot
16 once said, "I'm all ears," and I think that's the
17 attitude that EPA's coming into this meeting to
18 really hear your thoughts.

19 So along those lines, the plan for the
20 evening is an initial presentation -- it won't be
21 that long -- but initial presentation by EPA.
22 Then we'll open it up for a brief question and

1 answer period. If you have any clarifying
2 questions or factual questions about what you've
3 heard, EPA will try to answer those for you.
4 We'd like you to hold the commentary during that
5 phase, really, and just focus on any clarifying
6 questions you might have. And then we'll get
7 into the -- more of the open mike part of the
8 evening.

9 And what we'll do is when you signed in,
10 if you were interested in speaking, hopefully you
11 checked that box. We will try to run through
12 those more or less in the order that you signed
13 in and give everyone a chance to speak. If you
14 didn't check that box but wish you had, you can
15 always still go out and do that. And in the
16 event if we have time at the end, which I think
17 we may well have time, we'll still open it up
18 more generally and you can come up to the mike
19 and offer any thoughts that you might have. And
20 then we'll end up with some closing comments and
21 the benediction and get you back to your Friday
22 night.

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1 So my role as facilitator, I'm the
2 neutral and independent party here, just helping
3 facilitate the meeting. I may, as we go along,
4 if it seems appropriate, note some recurrent
5 themes if we're hearing them or some areas where
6 there may seem to be some agreement or
7 disagreement in the room and reflect that back;
8 but for the most part, I'm not going to occupy
9 much air time. We're going to leave all that to
10 you, but I will help manage the clock, and we
11 will try to end the meeting no later than 9:00
12 o'clock unless we're on the verge of some kind of
13 epiphany at that point.

14 So, in terms of guidelines for the
15 meeting, you certainly don't need to be told how
16 to behave, but we found over the years that
17 sometimes some of these guidelines can be useful
18 in helping have productive meetings. And one is
19 simple, you know, share the floor, the other
20 customary courtesies with each other and with
21 EPA. We'd like you to try to hold your verbal
22 comments, if you would, to three minutes or

1 fewer, at least initially. And, again, if we
2 have enough time and people want to recycle back
3 up to the microphone and say more, we're more
4 than happy to accommodate that, but just to make
5 sure that we give everyone a chance in fairly
6 short order to get up and speak, we'd like you to
7 try to hold it to three minutes. And I will with
8 increasing lack of subtlety let you know if
9 you're getting, you know, beyond that three-
10 minute point and ask you to try to wrap things
11 up.

12 If you have more extensive written
13 comments, EPA is certainly interested in
14 receiving those and just ask you to summarize
15 those during the -- your verbal remarks if you
16 would. Suspecting that many of you know a lot
17 about this topic or may have a lot of practical
18 experience, so sometimes we ask folks to have
19 what Suzuki calls the beginner's mind, right?
20 Suzuki said, "In the beginner's mind there are
21 many possibilities, but in the expert's mind,
22 there are few." So we're trying to expand our

1 thinking a little bit and think as creatively and
2 as practically as possible.

3 I'm also asking everyone to seek
4 understanding in both directions. Listen to what
5 others have to say and also make sure that you,
6 yourself, are heard.

7 And then finally, this can be a difficult
8 one at times, we'll ask you to try to stay on the
9 topic that we have for this evening which is the
10 Clean Boating Act and the development of best
11 management practices there under. Lots of others
12 things happening on the statewide basis or in the
13 regional basis that may have some relevance to
14 this topic, but we'd like you to try to focus on
15 the topic that we're here for this evening to the
16 extent that you can.

17 And with that I think I'm set, and we'll
18 turn it over to Brian Rappoli to give us a little
19 walk-through of where things stand now with the
20 Clean Boating Act. Thank you.

21 MR. RAPPOLI: Can folks hear me okay?

22 UNIDENTIFIED SPEAKER: It's not on.

1 MR. RAPPOLI: How about -- ah, okay. If
2 I drift away and you don't hear me, shout.

3 I'm going to give you a little bit of
4 background about the Clean Boating Act in a
5 little additional detail about where we're going
6 to be going with it. I just want to start with a
7 brief comment about the current regulatory
8 landscape. It's relatively concise. In fact,
9 what I have here is a very nice little foldable
10 pamphlet that the State of California publishes
11 for recreational boaters there.

12 On just two pieces of paper they
13 summarize all the federal and state regulations
14 that are -- affect recreational boaters, covering
15 things that most people are familiar with. You
16 know, accidental spill of oily waste, sewerage
17 regulations, disposal of certain trash types, but
18 this landscape is going to change slightly now as
19 a consequence of both court decisions and
20 Congressional action.

21 And what I'd like to give you now is a
22 very brief synopsis of what's happened over the

1 last several years. It actually began as a
2 petition. A group asked the EPA to start
3 regulating vessel discharges under Clean Water
4 Act permitting programs. And EPA denied that
5 petition. Because we denied the petition, we
6 were sued. We lost the court case. We appealed
7 the loss. We lost the appeal. As a consequence
8 we're in a position where all boats in the U.S. -
9 - recreational -- from the smallest recreational
10 vessel to the largest commercial vessel -- would
11 now have to be regulated under a Clean Water Act
12 permitting regime.

13 Now, you know, that wasn't good news for
14 a lot of people and particularly in the
15 recreational community, there was a great concern
16 about how they would comply with the permits.
17 Well, with the assistance of a number of boating
18 stakeholder groups, Congress worked on the matter
19 and in 2008 they passed the Clean Boating Act,
20 which was signed into law by President Bush.

21 Now by passing the Clean Boating Act,
22 Congress made a number of changes to the Clean

1 Water Act itself. First, they eliminated the
2 need for recreational vessels to need any type of
3 permit for their discharges and also as a
4 necessity added a definition of what a
5 recreational vessel would be. And I won't go
6 through all the legality of it. It's on our
7 website. We can explain it to you offline if you
8 wish.

9 But what I would like to spend a bit of
10 time is the new requirement that Congress put on
11 EPA, and that's by amending Clean Water Act,
12 Section 312, which tells both EPA and the U.S.
13 Coast Guard to go through a three-phase rule
14 making. And in that the first two phases are
15 being conducted by EPA where we're going to
16 determine what type of discharges incidental to
17 normal operation of a recreational vessel would
18 need a management practice and what management
19 practices could be put in place.

20 The second rule making would actually be
21 the establishment of performance measures. And
22 that's how you as a boater would know that you

1 actually successfully implemented the practice.

2 The third phase of the rule making will
3 be done by the U.S. Coast Guard, and this will be
4 the implementation instructions. And what I
5 would like to point out to you is this is
6 actually going to be a multi-year process, and
7 there will be no requirement on boaters until the
8 completion of the phase three rulemaking by the
9 Coast Guard. So, anything new for any new
10 requirements are, you know, a few years away yet.

11 IN my view graphs -- and I, you know,
12 keep referring to discharges incidental to normal
13 operation. Well, Congress was pretty broad in
14 terms of how they spoke to that. It's really
15 anything that could come off a vessel with the
16 exclusion of sewerage. The Congressional intent
17 was provided by a few examples, things like bilge
18 water obviously from most any vessel, but ballast
19 water also from larger vessels would be included
20 in the universe of discharges that EPA needs to
21 consider.

22 The universe of vessels itself is really

1 very large. The definition of a recreational
2 vessel has no size requirement. So it will cover
3 everything from the smallest personal watercraft
4 to the largest luxury yacht. And we're talking
5 in the neighborhood of about 17 million vessels
6 in the United States. So we need to come up with
7 management practices that can be reasonably
8 applied to a great variety of vessels being used,
9 as Paul mentioned, in, you know, very broad
10 geographic areas -- salt water environment, fresh
11 water environment, small streams, large lakes,
12 you name it.

13 The regulations themselves, once they are
14 in place at the end of the third phase. They'll
15 apply to all vessels in U.S. waters. That's
16 inland waters and all coastal waters out to 12
17 nautical miles. The Coast Guard is the primary
18 enforcement agent. Because the regulation is
19 part of 312, states may also enforce the
20 management practices at their discretion under
21 existing authority from the Clean Water Act.

22 We're very carefully thinking about how

1 we're going to go forward with this rule and
2 particularly how we're going to write the
3 language of the rule. We're very much aware that
4 we are in a position where we have to regulate
5 the American public while they're engaging in a
6 recreational activity. So we want to do this in,
7 you know, the least intrusive fashion that we can
8 but still fulfill the requirements under the
9 Clean Water Act.

10 You know, one of the things we're doing
11 today is, you know, trying to get input from
12 boaters themselves to make sure that our good
13 stewardship practices are ones that don't lead
14 to, you know, unforeseen implementation problems.
15 And the language is not -- if at all possible,
16 we're going to try to keep it away from, you
17 know, difficult to understand legalese, simple
18 narrative instructions, very objective guidelines
19 in terms of how a boater would know they've
20 actually successful and met the management
21 practice.

22 We keep using the term management

1 practice, and I would like to just take a moment
2 to say something about it. I actually read a lot
3 of the sailing and boating forums, and there
4 seems to be a lot of concern over what exactly
5 will we be doing with this rule. What are these
6 management practices going to be?

7 Well, I actually don't think people will
8 be terribly surprised by them when you see them.
9 If you live -- I'm assuming most people here are
10 from the local area, so if you're from D.C., if
11 you're from the State of Virginia, or you're
12 right here from Maryland, you're probably very
13 familiar with management practices for your
14 boats. The environmental offices in both states
15 and in D.C. have for years had guidance out for
16 boaters to help, you know, you operate your boats
17 in a clean and green fashion. And our intent is
18 to adopt the best practices that the, you know,
19 the collective wisdoms of the 50 states have
20 already been developing for, oh, in the order of
21 almost two decades now. And beyond adopting the
22 best, in some cases maybe build upon them if

1 appropriate.

2 We are still at the stage where we're
3 trying to decide which waste streams are the most
4 important ones to look at. And in light of
5 existing regulations and the existing best
6 management practices that states have been
7 recommending to boaters, these are the type of
8 things that we're currently focusing on. And
9 we're certainly very receptive to what the
10 boating community thinks and what the state
11 agencies think in terms of the type of discharges
12 that we should be focusing on when it comes to
13 putting forth these best management practices.
14 I don't think any things here are too surprising.

15 Bilge water is something we're all very
16 much aware of -- proper maintenance of your
17 engine, you know, what type of options are best
18 to be done on the water vice when it's on land.
19 Cleaning practices -- it could be something
20 simple as, you know, are you using, you know, a
21 safe cleaning product as opposed to something
22 that might be more caustic or dangerous. But,

1 you know, we're still away from that stage of the
2 decision making.

3 One point that I would like to take just
4 a few minutes to dwell on is the issue related to
5 aquatic nuisance species. Sometimes people refer
6 to it as aquatic invasive species. The reason I
7 just want to mention this a bit was actually the
8 whole reason for the initial petition to EPA.
9 And the subsequent lawsuit was due to the
10 transport of nuisance species by vessels,
11 particularly large commercial ones. And I think
12 that's what most people think of when they think
13 of the transport of aquatic nuisance species. We
14 think of large ships, transoceanic voyages, large
15 volumes of ballast water. And that's all true.
16 No one would hesitate to say that's not true.

17 The facet that we would like to focus on
18 is really the secondary dispersal where an
19 invaded water body can now be a transport vector
20 to other water bodies where we start seeing
21 organisms that were never in a stream before have
22 been moved there accidentally -- or from a lake

1 to another lake, or from one embayment to
2 another. And what type of practices can we do or
3 put in place to side of slow if not possible to
4 stop that. There are a lot of different, you
5 know, areas on a hull of a vessel that can be
6 fouled if the ship's large enough that have
7 ballast tanks. A lot of people trailer their
8 boats, and there's always an issue of carrying
9 weeds away when that's done. And while states
10 have lots of practices out there, they tend to
11 vary from state to state because states tend to
12 have different type of issues as you -- where you
13 are.

14 Perhaps the poster child for nuisance
15 species, if anyone has heard of them, is zebra
16 mussels or Quagga mussels. It's a huge problem.
17 Actually I think the latest assessment is that 32
18 of the 52 states currently are dealing with
19 invasions by zebra and/or Quagga mussels, and
20 it's costing billions of dollars in terms of
21 infrastructure.

22 And if you've ever seen pictures of

1 someone who operates a boat on Lake Mead, it's a
2 disaster. They -- just trying to keep their
3 boats free of Quagga mussels is impossible.
4 Within days the boats are encrusted. It's a huge
5 problem there.

6 And, you know, it's not just macroscopic
7 organisms like zebra mussels. There are invasive
8 plants. I'm sure people have heard of Hydrilla.
9 You put -- you know, you run through that with
10 your prop, and, you know, you've got a problem.
11 We're seeing other types of plants, too, that are
12 becoming a problem.

13 Just recently in both Maryland and in
14 Virginia an organism called didymo has been
15 found. It goes by the less glamorous name of
16 rock snot. Google it. It is uglier than its
17 name would suggest. And it wreaks havoc on a
18 fresh water body when it gets in. And if you're
19 a game fisherman, it's the last thing you want to
20 see happening in the lake where you fish because
21 it just disrupts the entire system once it gets
22 started. And I won't even -- you know, I could

1 go on about microbes.

2 I don't know if people have ever heard of
3 whirling disease. In the Great Lakes another
4 VHS, which is Viral -- I always have to look at
5 this one because -- Viral Hemorrhagic Septicemia.
6 That's also a big problem in the Great Lakes --
7 both invasive microbes that are now spreading and
8 causing problem with game fish. And the problem
9 with ANS is there really is no silver bullet, so
10 we're really looking for people with ideas
11 thinking outside the box, innovative practices
12 that we could potentially implement on a national
13 scale to help deal with these biological
14 invasions.

15 And here we are tonight. I know, if
16 you're like me, you don't read the Federal
17 Register, but we did put this out in the Federal
18 Register. And we're asking state agencies and
19 all interested stakeholders for their input, you
20 know, in terms of any type of information that
21 think is germane and it would be helpful with EPA
22 as we deliberate and make our decisions in terms

1 of what type of discharges need controls and what
2 kind of reasonable practices can we put in place.

3 This is just sort of suggested ideas,
4 but, you know, I don't want anyone to think this
5 is all we're looking for. We're really open to
6 anything that you think would be helpful to us as
7 we move forward.

8 Just to give you sort of an idea of where
9 and when some of this might be coming down the
10 pike, depending upon the nature and the amount of
11 input that we receive during this outreach
12 period, if it's information that we're, you know,
13 it's not a lot of information and it's
14 information that we're already mostly familiar
15 with, we're thinking that we might go to proposal
16 next summer. But if we receive a really large
17 amount of information, if a lot of it needs a lot
18 of thoughtful consideration, then obviously that
19 date would be pushed back.

20 I would like to point out that while we
21 are doing a pre-proposal outreach and taking your
22 input now, even once we go to proposal, if you're

1 not familiar with the EPA's rule making process,
2 there's another opportunity for the community to
3 provide input again even after we've gone to the
4 proposal stage. So you have yet another
5 opportunity to give us your thoughts and your
6 ideas and voice concerns if you have any.

7 And other than speaking tonight, if
8 you're not -- don't have anything prepared or
9 it's something that's best delivered in written
10 format, you can provide it to us through a bunch
11 of different mechanisms. You can use the classic
12 mail system. You can do it through a web-based
13 interface at www.regulations.gov, or you can e-
14 mail it to us. And information's here and it's
15 actually on the back of your agendas. And if you
16 didn't get an agenda, there's still a whole lot
17 outside.

18 And before I stop -- in case I forget --
19 there's actually some clean boating guidelines
20 that were nicely brought here by the Maryland
21 DNR. And if you're interested, they're on the
22 sign-in table. Please take anything that you

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1 like.

2 I think I'm done with my stuff. Well,
3 actually, we need to leave that up. I'll just
4 leave that up.

5 And we'll go to a short question period.

6 MR. DOUG THOMPSON: So what we'd like to
7 do now, as I said, earlier is just open this up
8 for questions to EPA about what you just heard or
9 something related to that. And if you would just
10 step up to the mike and then what we will do is
11 go through the list of those who have a statement
12 they'd like to make. So, if you would -- and if
13 you wouldn't mind just indicating your name, that
14 would be very helpful.

15 MR. GENDEL: Michael Gendel. I'm a
16 native from the area. Do you have copies of your
17 slides?

18 (Inaudible.)

19 MR. GENDEL: It would have been a lot
20 easier to follow along with slides.

21 MR. RAPPOLI: The slides will be made
22 available on our website. Is that what you'd

1 like or --

2 MR. GENDEL: I would have appreciated a
3 copy at the door.

4 MR. RAPPOLI: I apologize.

5 MR. GENDEL: Maybe for your next one.
6 Thanks.

7 MS. MEIGEL: Hi, my name is Robin Meigel,
8 a local boat owner. My question is do you know -
9 - has OMB determined whether this will be a
10 significant rule or a non-significant rule?

11 MR. LISHMAN: We're -- you know, we're
12 not at the point of -- because we have not yet
13 decided what discharges, what management
14 practices. We're not yet at a point of making
15 that kind of assessment. I mean, we're still at
16 the pre-proposal stage. Once we --

17 MS. MEIGEL: There's --

18 MR. LISHMAN: -- get input and we figure
19 out more, like, what the rule is going to look
20 like, at that point we'll do an economic analysis
21 and make a determination as to what we need to
22 do.

1 MS. MEIGEL: So no work plan has been
2 filed with OMB?

3 MR. LISHMAN: We would not go to OMB
4 until we actually have a proposal. I mean, that
5 is the point at which OMB would review it, and it
6 would also get with it at the same time, all of
7 the accompanying economic analyses to look at.
8 So we're not at that stage yet.

9 MS. MEIGEL: Do you anticipate EPA
10 internal staff preparing the economic analysis or
11 an outside contractor -- the cost-benefit
12 analysis?

13 MR. LISHMAN: I mean, typically, a
14 contractor will help with the analysis. I mean,
15 it's ultimately an EPA product, but in terms of
16 the economic expertise and things like that, I
17 mean, it will be a combination of EPA personnel
18 plus work by contractors.

19 MS. MEIGEL: And just my last
20 confirmation, what I'm hearing is it's not yet on
21 the regulatory calendar?

22 MR. LISHMAN: It is in the regulatory

1 agenda of the United States, yes.

2 MS. MEIGEL: It is on the agenda?

3 MR. LISHMAN: Right. It will show there,

4 MS. MEIGEL: Okay.

5 MR. LISHMAN: So it is -- in other words
6 we put out that we're working on this rule, and
7 OMB is aware that we're working on this rule
8 because it's in the reg agenda.

9 MS. MEIGEL: Thanks.

10 MR. THOMPSON: Thank you.

11 MR. SMITH: Hi, my name is Dan Smith. I
12 am a local boat owner, live aboard, and I am a
13 store manager in the marine industry.

14 My question is regarding the lawsuit and
15 two appeals. Who did it? Who is the person
16 adversarial to the EPA that filed the suits?

17 MR. RAPPOLI: Northwest Environmental
18 Advocates.

19 MR. SMITH: Okay. Can you tell me a
20 little about them or am I stepping outside of
21 bounds there? Who are they?

22 MR. RAPPOLI: Do you want --

1 MR. LISHMAN: I can speak to that, I
2 mean, just very briefly. It was Northwest
3 Environmental Advocates and a number of other
4 environmental groups that filed originally the
5 petition with EPA asking us to regulate ballast
6 water discharges through NBS permitting, Clean
7 Water Act permitting. Once we denied that
8 petition they sued us, and this lawsuit took
9 place in California in front of a District Court.
10 We lost. And as Brian mentioned, we appealed to
11 the 9th Circuit, which is also in California, and
12 lost. So that's how we ended up in the situation
13 we're in right now.

14 MR. SMITH: Thank you.

15 MS. PODLICH: Hi, I'm Margaret Podlich
16 with BoatUS. Brian, I had a question in terms of
17 enforcement. You had said that Coast Guard would
18 be the federal enforcement agency for this?

19 MR. RAPPOLI: Yes.

20 MS. PODLICH: And I'm -- I guess I'm not
21 quite clear. I think there are many places
22 around the country, like I think Lake Havasu is

1 one, where Coast Guard actually has federal
2 authority and absolutely zero presence. So I
3 wonder if you might clarify who would be
4 enforcing this if there is no Coast Guard local
5 presence.

6 MR. RAPPOLI: States have existing
7 authority under 312.

8 MS. PODLICH: If they want to. So that
9 would be in our state -- here, I guess it would
10 be the DNR?

11 MR. RAPPOLI: How -- it will vary from --

12 MS. PODLICH: Or DEP?

13 MR. RAPPOLI: -- state --

14 MS. PODLICH: We're not sure?

15 MR. RAPPOLI: -- state to state.

16 MS. PODLICH: Okay. Thanks.

17 MR. THOMPSON: Thank you.

18 MR. MARLETT: Yes, my name is Ralph
19 Marlett. I'm a boat owner here in Anne Arundel
20 County.

21 I was curious about your statements about
22 management practices and the definitions thereof.

1 I didn't get a clear statement of what is the
2 definition of a management practice. Do I
3 interpret that to mean a rule?

4 MR. RAPPOLI: The management practices
5 collectively will be part of EPA's rule making
6 and ultimately that value will be a requirement
7 for boaters to implement them.

8 MR. MARLETT: Sorry, that's just still
9 not clear. It's part of a rule making process,
10 or is it -- does it materialize eventually as a
11 rule?

12 MR. RAPPOLI: They are regulations, yes
13 that you would have to follow. Does that help?

14 MR. MARLETT: Okay. Wouldn't it be
15 easier just to say, "These are going to be
16 regulations." I mean, management practices,
17 that tells me how I'm going to manage something.

18 MR. RAPPOLI: Right.

19 MR. MARLETT: And I guess rules are a
20 part of that, but to my ears, it just wasn't so
21 clear. But anyway, that helps.

22 MR. RAPPOLI: Okay. Thank you.

1 MR. THOMPSON: Okay. We'll take a couple
2 more clarifying questions and then start with
3 hearing from folks.

4 MR. EDMONSTON: I am Chris Edmonston,
5 local native, boat owner. It was mentioned that
6 this applied to all boats on U.S. waters. How is
7 that going to be enforced on foreign flagged
8 ships?

9 MR. LISHMAN: It would be enforceable
10 against foreign flag ships just like any other
11 U.S. environmental laws are. I mean, there are
12 certain things you can and can't do under
13 international law, but by and large, I mean, a
14 foreign flag ship that comes into a U.S. port, it
15 is perfectly acceptable for the U.S. to condition
16 entry into a U.S. port --

17 MR. EDMONSTON: Well, I'm talking about -
18 -

19 MR. LISHMAN: -- laws.

20 MR. EDMONSTON: -- like recreational
21 boaters coming over from Canada, or Mexico, or --

22 MR. LISHMAN: And that's what I --

1 MR. EDMONSTON: That's a whole different
2 --

3 MR. LISHMAN: Right. But that is what I
4 have in mind. I mean, they would be applicable
5 to people coming in from outside of the U.S. even
6 if it's in a rec boat. Foreign flag vessels
7 would not get an exemption from having to comply
8 with these practices.

9 MR. EDMONSTON: Would -- has anybody
10 looked to see if these potential rules would
11 comply with existing international laws or
12 anything like that for recreational boats? I
13 know it -- say foreign flag, but I don't know if
14 recreational boats fall into a different group or
15 not.

16 MR. LISHMAN: We will be. I mean, one of
17 the things we will be looking at is existing --
18 both federal, state, and international standards
19 to the extent they're applicable. There's not --
20 at least to my knowledge -- a lot of
21 international standards that would be applicable
22 to recreational boats with the exception of

1 practices related to discharges of garbage in
2 which case there are international rules that are
3 in effect that would be applicable to both
4 commercial and recreational vessels.

5 MR. EDMONSTON: Thank you.

6 MR. THOMPSON: Thank you. Yes? Go
7 ahead, sir.

8 MR. WAESCHE: I'm Earl Waesche of the
9 National Boating Federation.

10 I was wondering are there any published
11 studies that show that gray water is a hazard to
12 the -- to our environment to the water?

13 MR. RAPPOLI: I believe there was a
14 report to Congress that EPA published last year
15 where an assessment was made of a variety of
16 different vessel discharges. It was published by
17 the Office of Wastewater Management. And the
18 potential impacts from gray water were reported
19 in that publication.

20 MR. WAESCHE: And what publication was
21 that? Where --

22 MR. RAPPOLI: It's a report to Congress.

1 I don't know that I could tell you the title.

2 Do you --

3 (Inaudible.)

4 MR. THOMPSON: Just ask you to repeat
5 that.

6 MS. DANESI: That is a study of
7 commercial vessels, smaller commercial vessels,
8 but we did also sample some recreational vessels
9 as a part of that. So you'll find some data on
10 recreational vessels in there also.

11 MR. WAESCHE: And what did you find?
12 Were they a significant contributor to the water?

13 MS. DANESI: As a part of the report we
14 found that individually they were not a
15 significant contributor, but as a whole when you
16 look at all the different vessels grouped
17 together in one location, there is a potential
18 impact.

19 UNIDENTIFIED SPEAKER: Who are you?

20 MS. DANESI: I'm sorry. I'm Robin Danesi
21 with the Office of Wastewater Management at EPA.

22 MR. WAESCHE: Thank you.

1 MS. DANESI: So, again, that's available
2 on our website.

3 MR. THOMPSON: Thank you. Go ahead.

4 MR. DAVIS: Yeah, my name is Jim Davis.
5 I'm a local boat owner operate the full length of
6 the eastern seaboard.

7 And the question on enforcement triggered
8 a thought in my mind. The Clean Water Act allows
9 individuals to file a civil lawsuit if they
10 perceive a violation. Will this ruling here have
11 the same sort of impact? Could I expect to see
12 somebody like the Puget Soundkeepers paddle up
13 beside me in a kayak and say, "I'm going to file
14 a civil lawsuit because you're discharging soap
15 in my water."

16 MR. LISHMAN: Because Congress put these
17 regulations under Section 312 and took these
18 discharges out of the Clean Water Act permitting
19 regime, 312 does not have citizen suit provisions
20 that are applicable to it. So, because of the
21 way Congress created the legislation, it doesn't
22 provide for citizen suits, unlike a discharge

1 would say be subject to NPDES permitting, those
2 kinds of things definitely are subject to citizen
3 suits, but because Congress has exempted rec
4 vessels from Clean Water Act permitting, the
5 citizen suit provisions would not apply.

6 MR. DAVIS: Okay. Thank you for that.
7 My concern is I just don't want to see boat
8 owners and environment -- radical
9 environmentalists go head to head in a vigilante
10 type situation.

11 MR. THOMPSON: Thank you. Sir?

12] MR. GENDEL: I think --

13 MR. THOMPSON: If you wouldn't mind just
14 identifying yourself.

15 MR. GENDEL: Michael Gendel again. I
16 think what some of the speakers were alluding to
17 about management practices in a particular study
18 and so forth is what is going to be your process
19 from beginning to end in some detail for
20 synthesizing regulations that will make Congress
21 happy. I think fundamentally -- and I don't see
22 it yet because we don't know what your process is

1 going to be but whatever it is should be well
2 founded on empirical data and studies.

3 Somebody alluded to, well, the individual
4 boats but collectively. You know, will we get to
5 see some scientifically based, statistically
6 correct studies that say the farmland and
7 everything else contributes 90 percent, and this
8 regulation will snip off one percent. And then
9 what is the cost benefit to that? That kind of
10 thing.

11 I'm not trying to dictate in detail what
12 you should do, but I think the overall thing is
13 are we going to see how you're going to do this
14 and not just do something because Congress said
15 you should do it. That would be my suggestion to
16 publish that.

17 MR. RAPPOLI: Well, EPA has a rather
18 detailed rule-making process which is internally
19 vetted from multiple offices. And all of our
20 findings will ultimately be published in what we
21 call a technical development document. And it
22 will have all of the technical information that

1 went into the reasoning and rationales for
2 considering certain discharges and the decision
3 that they would need some type of management
4 practice, so yeah, you'll see a lot of paper. If
5 that's what you're hoping for, you'll see it.

6 MR. GENDEL: I just wanted to see a
7 professional process and not just folks who we
8 don't know (inaudible) in Washington saying,
9 "This is a good idea, and oh, yeah, it's a
10 problem," and they don't really want to apply it
11 compared to other alternatives and problems in a
12 cost benefit.

13 MR. THOMPSON: So I think what we can
14 take from that is we're hearing the comment that
15 you're looking for kind of a rigorous defensible
16 analysis and not a black box process of some
17 kind.

18 So I think we're beginning to trend into
19 some commentary which is a natural progression.
20 Why don't we take one more question and then I'm
21 going to start calling some names. And if there
22 are further questions, we can certainly address

1 those a little bit later, too.

2 Sir?

3 MR. STUCHELL: Sheldon Stuchell, a local
4 boater.

5 So I'm trying to understand the impact as
6 we talk about these different things. So on my
7 ski boat I'm imagining that as the skiers are
8 getting in and out and they get some water in the
9 bilge and my bilge pump turns on, that's one of
10 the things you'd like to regulate; is that
11 correct?

12 MR. RAPPOLI: It's one of the things
13 Congress told us to consider, yes, bilge water
14 discharges.

15 MR. STUCHELL: Yes, I understand the
16 Congress things because I work for a federal
17 agency myself, so yes, you're going to regulate
18 that.

19 So that's one of the things, and you're
20 looking at that. So I'm trying to imagine how I
21 can control that. There's really only one way,
22 and that's I'm going to pump it into an on-board

1 holding tank or something. So I'm not sure how
2 that's going to happen.

3 MR. RAPPOLI: A lot of people use oil
4 absorbing socks.

5 MR. STUCHELL: They use what?

6 MR. RAPPOLI: Oil absorbing socks.

7 MR. STUCHELL: Oil absorbing --

8 MR. RAPPOLI: Socks.

9 MR. STUCHELL: -- socks. Okay. So
10 you're really looking not so much at the total
11 discharge, you're looking at if the discharge is
12 oily and being able to have separators on the
13 boats?

14 MR. RAPPOLI: Right. I mean, the -- it's
15 -- what you're describing actually is already
16 regulated under a different part of Clean Water
17 Act. It's in -- it's currently and has been for
18 some while to discharge oily waste from your
19 ship. So you can't discharge oily waste. You
20 need some type of control on your vessel to
21 prevent that.

22 Now, depending upon the type of vessel,

1 you might have different options in terms of what
2 you can do. We don't want to be overly
3 prescriptive in terms of telling you you must use
4 a certain device, but, you know, part of the
5 process is are there practices that you can
6 implement that control the amount of oil that
7 might end up into your bilge to begin with --

8 MR. STUCHELL: Sure.

9 MR. RAPPOLI: -- so that you don't have a
10 problem with subsequent discharge.

11 MR. STUCHELL: Okay. So, you're really
12 looking at trying to control discharge of oily
13 waste, not necessarily bilge water?

14 MR. RAPPOLI: No, we really -- you know,
15 this is just a matter of practicality. The last
16 thing we want is someone to endanger their vessel
17 because we're going to say you can't discharge,
18 you know, your bilge water. I mean, that just
19 makes, you know, very little sense. We'd be
20 putting people's lives at risk.

21 MR. STUCHELL: Okay. So, now on my
22 sailboat which I live on, that -- what you're

1 talking about for the gray water -- and I do not
2 have a holding tank large enough to take gray
3 water on a regular basis.

4 So, on the gray water, what are you
5 looking at there? I mean, what kind of options
6 do we really have other than --

7 MR. RAPPOLI: Oh, these -- yeah, pardon
8 me. Finish. I didn't mean to interrupt.

9 MR. STUCHELL: No, no, other than trying
10 to install larger holding tanks.

11 MR. RAPPOLI: Well, you know, personally,
12 I never would envision you retrofitting your
13 vessel to install a holding tank. I know
14 retrofit is probably the most expensive thing you
15 can do to your boat. And we don't want this to
16 be an expensive and burdensome process.

17 What we really want to do is, you know,
18 to be honest we're going to steal the ideas that
19 state agencies have already been telling boaters
20 to do. For gray water -- and again, EPA has not
21 made a decision on this, but if you're familiar
22 with state guidance on the issue, it's mostly

1 about minimization.

2 If you're fortunate to own a vessel that
3 actually had a laundry on board and a
4 recommendation is if you're tied up at pier, can
5 you do it landside instead of on your boat. If
6 you're fortunate enough to have a boat with a
7 nice galley, are there practices that you can
8 implement in terms of how you clean your pots and
9 pans that minimize the amount of solid waste
10 going down the drain? Can you minimize the
11 amount of water that you run in your shower?
12 Maybe change the type of soaps. These are
13 already existing practices that states are asking
14 boaters to do. And that's sort of framing our
15 thinking.

16 I couldn't really see -- even if I wanted
17 to, I don't think my bosses would ever let me say
18 we're going to write a rule that you're going to
19 have to retrofit your boat to put a holding tank
20 in.

21 MR. STUCHELL: Well, I think any
22 performance based rule can force a back fit on

1 the boats -- a retrofit on boats to be able to
2 satisfy some of these conditions. And I think if
3 we look forward in that, that's kind of a concern
4 everybody would have, of course, is how do you
5 retrofit a boat for all these different
6 conditions, right?

7 So, if you have some thoughts which
8 nothing is in stone yet, it's not a regulation --
9 if you have some thoughts on the four or five
10 discharges that you had up on the one slide, and
11 if you went back to that and could kind of just
12 talk a little bit about some ways that you
13 envision boaters being able to satisfy those, I
14 think it would be very helpful to the discussion.

15 MR. THOMPSON: Let me suggest we let that
16 question hang for a moment as -- sort of hit the
17 pause button. I want to give people a chance who
18 came in and indicated that they wanted to speak
19 that opportunity before the evening gets too
20 late. And if there is more time at the end and
21 EPA wants to offer any commentary on that, we can
22 see if they're prepared to say anything tonight.

1 Again, the purpose of this meeting, I
2 think, is EPA is really hoping to hear your
3 ideas, your thoughts, draw on your kind of
4 practical expertise. You might say looking for
5 those sweet spots where steps could be taken that
6 are both environmentally effective and are not
7 burdensome or overly expensive.

8 So in terms of commenters, first would be
9 -- you read my mind. I think you're already up
10 here. So, Margaret Podlich will be first, and
11 then James Davis would be next.

12 MS. PODLICH: I was going to ask another
13 question, but I'll roll it in here.

14 MR. THOMPSON: Yeah.

15 MS. PODLICH: Thanks for the opportunity
16 tonight. I'm Margaret Podlich, Vice-President of
17 Government Affairs for BoatUS, and I'm pleased to
18 be here representing our more than half a million
19 members nationwide.

20 It's with some irony that I'm here
21 tonight. For the last nearly 20 years I
22 developed a lot of these clean boating practices,

1 ideas, concepts that rolled into clean boating
2 programs and clean marina. And they were
3 voluntary. The clean marine programs that are
4 across the 23 states, more than a thousand clean
5 marinas around the country. And I think it's
6 great to see that clean boating practices that
7 were not mainstream 25 years ago back when
8 Jonathan Amson [phonetic] and I were working on
9 some other clean boating issues together, they
10 are now mainstream which is really great. As
11 Brian said, we've got all kinds of programs out
12 there talking about recycling your trash, clean
13 fueling techniques, recycling monofilament, all
14 kinds of ranges of ideas.

15 My point is that there is a large number
16 of boaters who are actively using these best
17 management practices on a voluntary basis as long
18 as they're reasonable, practical, and economical.
19 And in terms of getting buy-in from boaters for
20 any future action, I think it's really important
21 to remember those things. As long as the
22 practices have remained voluntary, I think that

1 boaters have been okay with soft science and what
2 seems intellectually rational to them as a
3 foundation for a change in their actions and for
4 using these BMPs.

5 My caution is that as particular BMPs are
6 weighed as potential mandates, it becomes really
7 vital to have hard science. I think we've heard
8 that already today. But it's really hard for any
9 of us, from my 10-year-old son on up, to follow
10 rules that we don't understand. And I know in
11 Maryland we've had some examples with the Marina
12 General Permit lately where we really needed some
13 more science to get buy-in from the stakeholders.
14 And we did not get it before the permit was made
15 final.

16 We understand that you're looking for
17 input on what specific discharges should be
18 managed. And I actually -- I'm kind of wondering
19 why you're asking that question because the
20 guidance to make this decision is written
21 actually in the Clean Boating Act. And I helped
22 write that language. So I'm kind of concerned

1 that you think that it's up -- you know, it's up
2 for discussion.

3 The Clean Boating Act says that EPA
4 should consider the nature of the discharge, the
5 environmental effects of the discharge, the
6 practicability of using a management measure, the
7 effect a management practice would have on the
8 operation of the boat, and the economic cost of
9 the use of such a management practice, and on and
10 on.

11 To me it's not a popularity contest.
12 It's written right out there what discharges
13 remain. After you go through all those filters,
14 those are the ones you should consider doing best
15 management practices on. You're looking on
16 specific effluent limitations and what BMPs would
17 be good, and I'd suggest that once you figure out
18 what discharges you want to address, as Brian
19 said, you have the best library there is now on
20 clean boating and clean marine practices around
21 the country. So I think you've got the basis of
22 a list right there.

1 I have a thought on anti-fouling paints
2 because you-all have mentioned it. And it's a
3 necessary part of boating. They help prevent the
4 spread of invasives. In fact, copper paints
5 which are under scrutiny -- the State of
6 California -- you guys may not know the State of
7 California, State of Washington, have current
8 legislation proposing to ban copper bottom paints
9 for recreational boats only, not the commercial
10 guys, just the -- just the recreational guys.
11 And there's just not enough viable options for
12 boaters facing the array of fouling conditions in
13 the country right now to consider a ban even if
14 it is delayed.

15 You guys have mentioned the gray water.
16 I think we've heard a little bit more about that.
17 In terms of boat cleaning products, BoatUS
18 Foundation, which is a non-profit, last year
19 conducted a study on the boat cleaning products
20 available, and they concluded that it's virtually
21 impossible for an average citizen to make an
22 environmentally smart purchase decision based on

1 current product labels. They tried. And the
2 ones that were labeled that way weren't, in fact,
3 in the lab, and some of them that weren't labeled
4 at all were great for the environment. So we've
5 got a long ways to go there.

6 In terms of bilge water, I think what
7 we're talking about it oily bilge water. And
8 it's somewhat comforting to me that most boaters
9 know that it's illegal to discharge oil and
10 frankly, it's so visible that none of us want to
11 create it, and if it's gasoline, we've got
12 bigger, more explosive problems. So we tend to
13 take care of that pretty quickly.

14 You asked for effluent limitations and
15 suggestions on that, which implies measurements.
16 And the fact that you're even considering that,
17 to me, is incredibly alarming because we're not
18 talking about industrial discharges. We're not
19 talking about Joe, who is the full-time salaried
20 compliance officer at a factory that's assigned
21 to computing outfall rates and filling paper work
22 -- filing paper work. So this would be a

1 nightmare, and I really don't think we should be
2 going there.

3 MR. THOMPSON: If you could kind of tie
4 it together in the next minute or so --

5 MS. PODLICH: Yes.

6 MR. THOMPSON: -- that would be great.
7 Thanks.

8 MS. PODLICH: We've got 82 million people
9 who went boating last year. You've got a huge
10 communications challenge both in terms of this
11 process -- and we'd be happy to help you --
12 continue to help you get people to meetings like
13 this, but in terms of whatever you end up with,
14 big, big compliance and education strategies are
15 going to be needed.

16 I'd suggest you've got to have some more
17 meetings. And I know budgets are really tight,
18 but I think you've got to have more meetings
19 around the country. Appreciate the opportunity
20 to be here. We need hard science. We need
21 reasonable, practical measures that people can do
22 on an array of boats. Thank you.

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1 (Applause.)

2 MR. THOMPSON: Thank you. So, James
3 Davis followed by Daniel Smith.

4 And I will apologize in advance if I
5 mangle anyone's name. Smith and Davis aren't too
6 hard, but --

7 MR. DAVIS: You did a pretty good job.

8 Really, I just -- I've thrown away my
9 original notes. Just remind you keep it simple,
10 keep it effective, keep it to where some old guy
11 like me who's hobbling around on the water and
12 collecting Social Security can understand it and
13 afford it. And most importantly, make it
14 uniform. Make it uniform. I don't want to take
15 my boat into a harbor and I -- this is only
16 hearsay. I hear Nantucket has said you can't
17 dump gray water in our harbor. Well, until I
18 find out otherwise, care to guess what harbor
19 will not be visited by me this summer?

20 Make it uniform, simple, and effective.

21 MR. THOMPSON: Thank you. So, Daniel
22 Smith and then Charles Germain.

1 MR. SMITH: Thank you. I'm Daniel Smith.
2 I introduced myself earlier.

3 My job -- how I make my living is as a
4 manager, specifically a store manager. And
5 management is a process. And in that process I
6 need specific tools.

7 The, of course, big thing in running a
8 store is looking at my bottom line, the profit
9 and loss statement. The other thing I look at
10 are specific areas that contribute majorly to a
11 highly profitable area or an area causing my
12 loss. Is this a loss I have to incur in order to
13 keep 90 percent of the people happy one percent
14 of the time -- stuff like that.

15 This relates specifically to what we're
16 calling hard science. Everybody here I think is
17 okay we get to the point we have a regulation,
18 we're done with it. No, this is actually maybe
19 step two in the process.

20 Management involves hard science. That
21 means getting a maximum amount of data on
22 condition of the water. Not just oh, the water

1 in general. But like my store, this product's
2 moving in this shelf. This product's not moving
3 over here, but I need it because somebody might
4 need it twice a year. This is 80 percent of my
5 problem. And there I'm talking about phosphate
6 waste coming off land, sewage, et cetera, et
7 cetera, that type of thing.

8 We need specific examples, specific
9 areas. What's the water condition around a
10 marina in Spa Creek as opposed to the middle of
11 the Bay, as opposed up South River where there
12 are no marinas up that far north? We need
13 specifics where the pollution is coming from.

14 You look to the Coast Guard for
15 enforcement and them writing the rules. Well,
16 there are a bunch of us that are also affiliated
17 with the Coast Guard. It's called Coast Guard
18 Auxiliary, and I am not speaking on behalf of the
19 Coast Guard Auxiliary even though I'm a member.
20 I am speaking as an individual. Let me stress
21 that.

22 We go out on patrol every weekend. Once,

1 twice -- spend 8, 10 hours there. We're doing
2 surveillance, looking for trouble. One thing we
3 could be doing is doing active water sampling.

4 There are other groups, Chesapeake Bay
5 Foundation, Living Classrooms, Lady Maryland --
6 they've got Lady Maryland out taking water
7 samples all day long to train the kids. Use the
8 data. That will tell you your problem. More
9 specifically, that will tell you what needs to be
10 regulated. That'll tell you, oh, gee, maybe we
11 do have a problem with gray water we have to look
12 at, or, no, this is a red herring that is going
13 to make a few people angry and make a lot of
14 people happy because you sock the boaters, but
15 it's not going to impact the problem. Use the
16 science to find the problem.

17 With that I'll tie it up, and thank you
18 very much for your time.

19 MR. THOMPSON: Thank you. So, Charles
20 Germain and then Moe Colantonio. I hope I have
21 that right.

22 MR. GERMAIN: I'm sorry. I have nothing

1 to say any more. My concern has already been
2 addressed. I concern about the bilge water and
3 the gray water, so --

4 MR. THOMPSON: Okay. You can yield your
5 time then.

6 MR. COLONTONIO: I'm Moe Colontonio. I'm
7 President of Tab Paper Recycling. I flew in --
8 my son actually flew me in 6,000 miles to ask one
9 question.

10 He said, "You know, Mom uses --" I came
11 in from Argentina early this morning. "Mom uses
12 about 100 gallons a day on our sailboat here," we
13 keep in Annapolis. We're concerned about this
14 gray water issue. We really have three concerns.

15 I guess the first is if they implement a
16 rule that says we cannot discharge it, are you
17 expecting us to filter it or expecting us to put
18 a tank in our boat? I mean, I think it's a
19 reasonable question. Have they come up with any
20 decision on what they want us to do with it? Are
21 they saying filter the gray water?

22 And is gray water primarily what's coming

1 out of our showers and our sinks in the boat? I
2 mean --

3 MR. RAPPOLI: Yeah, I mean, that's a
4 primary source, yes.

5 MR. COLONTONIO: Excuse me?

6 MR. RAPPOLI: You're asking is -- are
7 those the primary sources?

8 MR. COLONTONIO: Yes. Like, I have a 50-
9 foot sailboat I keep right around the corner from
10 here.

11 MR. RAPPOLI: Right. I mean, so I
12 imagine on your boat your primary source would be
13 your galley and if you have a shower.

14 MR. COLONTONIO: Okay. So, are we
15 expected to possibly -- if they implement a rule
16 and say you cannot put it into the water, are we
17 expected to filter it or to tank it? And if
18 we're expected to tank it, where do we put it?

19 MR. RAPPOLI: Again, the agency hasn't
20 made a decision on that, but I would be really
21 surprised if the agency ever said you can't
22 discharge gray water.

1 MR. COLONTONIO: Just may make us filter
2 it possibly?

3 MR. RAPPOLI: That decision has not been
4 made.

5 MR. COLONTONIO: Okay. The second is
6 relating to our bottom paints. Right now, I
7 mean, we have ablative paints with copper based
8 and then some copper based that are hard.

9 Have they done any studies to say well,
10 maybe don't use the ablative but use the other or
11 vice versa? Any recommendations from EPA?

12 MR. RAPPOLI: EPA hasn't done those
13 studies, but the State of California has been
14 conducting those studies for the last several
15 years, and they're in the process of publishing
16 their results.

17 MR. THOMPSON: Get a little closer to the
18 mike.

19 MR. RAPPOLI: The State of California has
20 been conducting studies on exactly that issue for
21 the last several years, and they're currently in
22 the process of publishing their results.

1 (Inaudible.)

2 (Laughter.)

3 MR. RAPPOLI: Coincidence.

4 MR. COLONTONIO: And I guess the third
5 would be the detergents we're using on the top
6 sides of our boats and the sides of our boats, we
7 do not have to re-catch that water? You just
8 want to make sure we're using biodegradables?
9 Yes or no?

10 MR. RAPPOLI: And I'll -- I'll just
11 repeat what Margaret said. BoatUS Foundation
12 published a great article on that with
13 recommendations for, you know, good cleaners that
14 you can use on your boat that are much gentler on
15 the environment.

16 MR. COLONTONIO: But they don't want us
17 to necessarily catch that water? They will allow
18 us to -- that water can flow off?

19 MR. RAPPOLI: You're asking me to tell
20 you what the phase two rule will tell you, and I
21 don't know what that will tell you. I apologize.
22 I just can't tell you right now.

1 MR. COLONTONIO: Well, thank you very
2 much.

3 It cost me about 10,000 in jet fuel to
4 get that answer. I'm sorry. Thank you. I'll
5 relay that to my son.

6 MR. THOMPSON: I hope it was worth 6,000
7 mile trip.

8 You know, one of the -- the difficulties
9 or -- at this point is it's early in the process,
10 so people naturally have specific questions that
11 they want answers to. And I think what we're
12 hearing from EPA is at this juncture some of this
13 is undecided, although there are certain things
14 like major retrofits that I think we're hearing
15 they don't anticipate being part of -- part of
16 any rule. But the rule is yet to be developed.

17 Michael Gendel? I think if -- and then
18 we would have Susan Zellers.

19 MR. GENDEL: Hi. Let's see, I found out
20 about this a couple of days ago, so I don't have
21 a big prepared speech. My speech writer is on
22 spring break. Sorry about that.

1 I just wrote down some notes. And I
2 guess I would first go back to Marge's -- some of
3 what she said. When I heard about this and when
4 I got here, it was really scary. I was a private
5 pilot, and I had to give it up because of
6 regulations and all sorts of things that priced
7 me out of that recreation. And I really fear
8 that this is going to happen.

9 The other thing she said was voluntary.
10 I spent years rebuilding a 42-foot sailboat. I
11 put in holding tanks because I thought it was the
12 responsible thing to do. We found room, and we
13 put them in, and we use them. And I think if you
14 educate people, particularly here. We have
15 Chesapeake Bay Foundation. I'm a part-time
16 employee at West Marine. We're selling a lot of
17 these products, these green products that we're
18 bringing onto the shelves.

19 I'm just scared to death that what we
20 have here are solutions in search of problems. I
21 haven't heard a good definition other than
22 Congress said something or passed a rule. As an

1 ex federal employee, I would caution you in being
2 overzealous in responding to the master so to
3 speak -- bite my tongue -- on Capitol Hill.

4 Let's see. Bear with me one second here.

5 And again I would just say it would be
6 nice next time or other places to pass out your
7 slides. It helps to follow along and take notes.
8 And if you're doing extemporaneous things, I
9 don't have to pull little pieces of paper out of
10 my pocket.

11 And I would just say that as a taxpayer
12 in this particular instance that they also serve
13 who sit and do nothing. That would be my answer.
14 Do the minimum and make it voluntary. I think
15 most people -- at least in the Bay. I don't know
16 about Oshkosh and places like that, but I just
17 think most boaters -- and there's always the
18 80/20, 90/10, but the 80 and 90 shouldn't pay for
19 the 10 and the 20 who are inconsiderate to the
20 environment. Do as little as possible.

21 MR. THOMPASON: Thank you. Susan Zellers
22 and then Sandy Daugherty it looks like.

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1 MS. ZELLERS: Susan Zellers. I'm the
2 Executive Director of the Marine Trades
3 Association of Maryland. I represent the boating
4 industry here in Maryland. We're about a \$2
5 billion dollar industry statewide, about 200,000
6 registered boats. And we employ more than 40,000
7 people.

8 I want to emphasize that you have to
9 think about this economic impact not just to the
10 individual boater, which is very important -- I,
11 too, am an individual boater -- but to this
12 industry which is already a -- somewhat of a
13 fragile industry.

14 We did just survive the general discharge
15 permit issuing here in Maryland, and it has been
16 a very long and very difficult process, one that
17 the very first time we met with our local MDE, we
18 heard that boy, we're going to do our best to
19 keep this process open and as clear as we
20 possibly can. And, of course, it was clear as
21 mud through the entire process -- all the way to
22 the end which was -- now it's been issued, and

1 I'm holding long sessions with lots of questions
2 still that nobody seems to really be able to
3 answer.

4 To that point I'm going to echo a little
5 bit about what Margaret said. And that is that,
6 you know, we do have an opportunity this time to
7 be more clear and to have the -- the requests
8 that you're making of the boater be founded in
9 some kind of science.

10 What we found in this process with the
11 general district permit was that, you know, no
12 one really knows still what is going to be
13 required of them to meet the requirements that
14 you have set forward or that has been set forward
15 for the individual marinas. If that happens with
16 boaters and you're told to keep a particular
17 something from getting into the water, you know,
18 how are we going to do that? These people are
19 asking questions about the gray water. How is
20 that going to impact? Are they going to have to
21 tote it around? Are they -- you know, what is
22 going to happen with that? The more clear you

1 can be up front, the better chance you're going
2 to get of getting good input from the boater as
3 far as will this work or won't it work.

4 The other piece is this science. You
5 know, where we've seen these types of measures
6 work and how, in fact, is it impacting the
7 fisheries when we do it wrong. Give the boater
8 something to buy into where they're going to make
9 a difference.

10 You know, when we all started recycling,
11 originally we all had to put a recycling bin in
12 our house. We didn't see it. We didn't
13 understand why we were doing it. We didn't
14 understand what the end was. When we began to
15 see the results, you get more and more people
16 buying in. And when we made it easy to recycle -
17 - when we didn't have to put it in the back of
18 our car and drive it across town and then
19 separate it into places, that's when people
20 started, you know, to participate.

21 So I hope you're going to use this as an
22 opportunity to get some clean water, but to do

1 that you really have to work up front to get the
2 buy-in from the boaters.

3 I really want to thank every boater who
4 came out tonight. I hope we see more at the next
5 session. I hope you'll all go back and tell all
6 your friends to come out and use this as an
7 opportunity. We, here in Annapolis in this area,
8 really should be packing this room.

9 So, thank you for the opportunity.

10 MR. THOMPSON: Thank you. And if -- you
11 need that minute? Our audio savant over here has
12 asked if we just could hold --

13 (Recording ended at this point.)

14 MR. THOMPSON: -- said, "Well, we haven't
15 had any of those yet." So, I learned something
16 on the way there.

17 Are we ready? Okay.

18 Sandy, you're up. Thanks.

19 MR. DAUGHTERY: (Inaudible.) Commodore of
20 Singles on Sailboats. And we represent 700 to a
21 thousand members in six states and D.C. That's
22 going to be six and a half senators and a passel

1 of Congressmen all getting letters from people my
2 age and older. We have 178 boats actively being
3 used in the club, and each of these boats passes
4 a safety inspection. We have requirements before
5 a skipper can get crew for a day sail, or a
6 weekend, or anything else.

7 The point that I'm trying to make is that
8 we practice stringent requirements on boating
9 safety and controlling our discharges. We do,
10 however, feel that we're the scapegoat in this
11 question. I don't know a single boater who does
12 not follow the regulations on oil discharges and
13 sewage. I know that in 37 years of boating I
14 have never discharged sewage in an inland
15 waterway. I don't know anybody else that does.

16 Given that, I believe that the Clean
17 Boating Act as passed by Congress was
18 misdirected, and it's -- it may be a fact that
19 you have to live with. It does not represent a
20 fact that we have to live with. So we will
21 probably vocally, stringently, and ad infinitum
22 object to too much regulation.

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1 Given that, I have some suggestions. I'm
2 going to address sewage first. And this is --
3 this is apart from your concern. At present
4 there only three places that I can pump out
5 within a 45-minute sail of where I keep my boat.
6 Two of them are broke. Only one of them is
7 functional, and it's closed on weekends.

8 When I pull into a marina and step off
9 with my carefully sorted trash, I may or may not
10 find a place to leave it. It may be a single
11 garbage can with the lid sitting on six or seven
12 extra bags.

13 If I have some fuel that I need to get
14 rid of because it's polluted or it's E-10 or
15 something else like that, there's no place I can
16 take it. I can pay \$3 a gallon to have it
17 polished and still not solve the problem.

18 So what I urge you is rather than
19 specifically address the boater as the end person
20 responsible for any of these concerns, that you
21 instead facilitate a way to accomplish these
22 goals. If that means funding, underwriting,

1 supporting the establishment of regular pump-out
2 stations at a larger number of marinas, that
3 should be the first step. If it means buying
4 garbage cans for the neighborhood marina, that
5 should be something you would address.

6 I thank you for your attention, and I'm
7 glad I had a chance to talk.

8 MR. THOMPSON: Thank you. Actually, that
9 comes to the end of those that -- on my list, but
10 I want to first invite -- is there anyone else
11 who hasn't had a chance to speak this evening who
12 would -- who would like to do so? I would
13 certainly give you that chance.

14 I see a couple hands. So, ma'am, and
15 then you, sir. Just running the gauntlet to the
16 microphone here but --

17 MR. SABOL: My name's Eddie Sabol.

18 MR. THOMPSON: Actually, do you mind if
19 we -- but go ahead and stay there if you don't
20 mind waiting. And go ahead.

21 MS. MEIGEL: Robin Meigel again.

22 There have been a lot of questions, and

1 as someone who writes regulations, I have a
2 suggestion, and I don't know if it's realistic.

3 To somewhat bridge the gap between the
4 fact that there's a statute that allows for
5 draconian imaginations to project results, the
6 need for reconciling cost benefit and hard
7 science -- one way to marry it up is to actually
8 have maybe a requirement that is triggered only
9 upon certain conditions and that when people see
10 an artfully expressed, scientifically based
11 conditions that would then trigger something,
12 they can maybe argue with that; but it's a
13 basically a springing reg if you will as opposed
14 to thou shalt tank all gray water.

15 If, for instance, Nantucket Harbor were
16 to advertise why they have this rule, there might
17 be more buy-in or not because maybe they think
18 that it's not scientifically justified, but at
19 least it would be transparent as opposed to
20 Congress has said something, therefore we must do
21 something.

22 The other option in regulation writing is

1 to actually regulate discretion, to provide for
2 waivers and/or discretionary outs. And so the
3 reasonableness of that can be structured into a
4 reg, and you've complied with the letter of the
5 requirement that a regulation must issue in
6 furtherance of executing the law, but there's a
7 lot of reasonableness that can flow from the
8 procedure.

9 That's my statement.

10 MR. THOMPSON: Thank you. Sir?

11 MR. SABOL: My name's Eddie Sabol. I'm
12 an invasive species, having come here from
13 Pennsylvania.

14 (Laughter.)

15 MR. SABOL: I now live in Severna Park.

16 I'm the Vice-Commodore of the Northern
17 Star Hunter Sailing Association. And one of the
18 things that we look at when we're looking at the
19 problems here with wastewater in the Bay, we have
20 up on Cypress Creek up in Severna Park a several
21 hundred thousand gallons of raw sewage dumped in
22 the last year. Eastport in Annapolis working on

1 a pipe several hundred gallons of raw sewage
2 dumped into the Bay.

3 Rock Creek -- I keep my boat over at the
4 Maryland Yacht Club -- closed to swimming for the
5 last 30 years because the local treatment
6 facility cannot handle all their sewage, and we
7 have raw sewage dumping into the creek.

8 The last storm event that we just had,
9 millions of gallons of raw sewage dumped in up in
10 the inner harbor. And that was closed, which I
11 was surprised to ever hear it was open. That's
12 also closed to swimming.

13 These large numbers and discharges here
14 in Maryland -- I know that we're struggling with
15 a lack of funding in order to fix these
16 facilities, but we have laws on the books now to
17 protect the Bay, and they're not really enforced
18 real well that we have these things occurring on
19 a regular basis.

20 So now we're going to go an create
21 additional laws to go after the small one percent
22 that may have an effect on it of the small one

1 percent of the group that may be going out and,
2 well, I'm not going to pump out, so I'm just
3 going to discharge where I want. We really need
4 to look -- and I realize that you're working on
5 this particular law, but as a group with the EPA
6 you need to be enforcing the laws that we already
7 have as well as figuring out what it is that you
8 want to do with this one. Thank you.

9 (Applause.)

10 MR. THOMPSON: Thank you.

11 UNIDENTIFIED SPEAKER: I think it's kind
12 of like the ant going up the elephant's leg.

13 MR. THOMPSON: Yes, sir. And then over
14 here. Go ahead.

15 UNIDENTIFIED SPEAKER 1: I just wanted to
16 second that. I've been boating on the Chesapeake
17 Bay now for, I guess, something over 40 years or
18 so. And definitely, there's a lot less trash
19 just floating in the water than it used to be.
20 And the marinas and all used to have oil in them
21 and all. So I think the boaters have done a
22 great job of cleaning up pretty well like that.

1 But the big concern are the polluters
2 from the shore that come in. Now, when a city
3 sewage plant malfunctions, why not have a big
4 holding tank that it -- pond that it goes into
5 and it stinks up that whole part of town, and
6 something will be done about it. Don't just
7 flush it out into the water.

8 And I would say the same thing about
9 fertilizer. You look at most of the homes -- and
10 I think most would probably be an accurate
11 statement -- fertilize their lawns. Where does
12 that go? It runs right off into the creek, right
13 off into the -- directly into the Bay through
14 drainage pipes and that kind of -- it seems to me
15 that all of those kind of issues -- if you really
16 want to do something about water quality and the
17 Bay -- are the ones to concentrate on because I
18 think the boaters are doing a pretty good job.

19 And there's no way you're going to get
20 somebody not to pee over the side of his boat
21 when he needs to relieve himself through some law
22 or rule, so accept it. I like that. Thank you.

1 MR. THOMPSON: Thank you. Yes. Here and
2 then over here.

3 MR. AMSON: My name is Jonathan Amson.
4 I'm one of the EPA staff that's working on this
5 rule.

6 I would just like to point out to the
7 gentleman that recommended providing funding for
8 pump-out facilities at marinas, there is an act
9 known as the Clean Vessel Act which is
10 administered by the Department of Fish and
11 Wildlife Service in the Department of Interior.
12 This year they had \$15.7 million to dispose of to
13 states to build, or to retrofit, or to improve
14 their pump-out facilities. They had 31
15 applications from the 50 states. Those
16 applications only amounted to \$13.6 million. In
17 other words, they didn't even spend -- have the
18 ability to spend the extra 2.1 million that they
19 have. So the money is there. I would encourage
20 people if you think that there is a need for a
21 pump-out facility in your particular area, go to
22 your local boating association, call the Fish and

1 Wildlife Service, get an application. It has to
2 be filed by the state. It does not get filed by
3 individual people. But that money is available
4 and it can be used.

5 MR. THOMPSON: Thank you. I think in the
6 front and then the gentleman in back. Yes.

7 MR. SNYDER: I'm Bill Snyder. Actually
8 I'm a microbiologist, and I'm a -- have sailboats
9 and live on the Chesapeake here in the Annapolis
10 area. Well, let's see. And I've written my
11 share of government regulations.

12 I would say that I think one of your main
13 challenges here is going to be your economic
14 assessment as I'm sure you anticipate. And all I
15 can say is I'm glad I don't have to do that, but,
16 again, you do need to take into consideration the
17 individual costs and compare -- and I'm sure
18 you're aware of that. So that is going to be
19 something that is part of this regulation, right
20 -- before it goes final is an -- is an economic
21 assessment?

22 MR. LISHMAN: Yes, absolutely. Like any

1 EPA rule making or anybody else's rule making for
2 that matter, we go through an economic analysis
3 for it.

4 MR. SNYDER: Yeah, so that is one -- one
5 aspect that will be very challenging here.

6 I am in favor of cleaning up that Bay. I
7 used to sail out there and see crabs swimming
8 along in front of the boat everywhere. Where'd
9 they go? Your -- I probably shouldn't say this,
10 but your invasive species comment -- Pogo had it
11 right years ago. He said, "We ought to go to the
12 solution --" Albert said, "We ought to go to the
13 source of pollution and do away with it." And I
14 think what Pogo said was, "The source of
15 pollution is people." It's that exactly, but
16 that's not an option, unfor -- fortunately, I
17 guess. But still, it is a challenge.

18 One aspect -- you were talking about
19 bottom paints. And I'm sure you're aware of it,
20 but the pesticide office antimicrobial program
21 regulates bottom paints. Their primary data
22 requirements are efficacy, but they also are

1 required to do a risk assessment there. So you
2 should be checking in with them, I think, and
3 coordinating things. And it's possible that if
4 you're seeing too much risk here and there, they
5 could change labels and so forth to put extra
6 restrictions and so forth without having to
7 duplicate things in a rule.

8 MR. THOMPSON: Thank you.

9 MR. SCHNEIDER: Hey, my name's Brian
10 Schneider. I'm an avid boater throughout the
11 Chesapeake Bay.

12 And one thing with the Clean Water Act
13 the EPA has failed the citizens of Maryland at
14 least as well as with everything else you dabble
15 in, you don't get it right, to clean up the
16 Chesapeake Bay, and we wouldn't have to mess with
17 any of this what you're suggesting today. The
18 big culprit is the Conowingo Dam.

19 How many of you guys have been out on the
20 Chesapeake Bay in the past four months? Well, on
21 the panel itself.

22 A couple weeks ago I was out trying some

1 new fishing equipment out. And you can see a
2 nice rock fish swimming through the Bay really
3 nice and clear. Today you can't see an eighth of
4 an inch down because of the Conowingo Dam opening
5 its flood gates and sending all of its sediment
6 down through the Bay, down past Calvert Cliffs
7 Nuclear Plant. SO you guys are failing us. You
8 keep coming up with new ideas, but you don't
9 tackle the real problems.

10 So what you ought to do at first is take
11 all your energy, take your time, and take the
12 money that you're spending on trying to regulate
13 boating and clean up the Conowingo Dam, and
14 you'll see that the Chesapeake Bay becomes very
15 clean again.

16 And so you guys are failing all of us
17 citizens here by trying to do other things when -
18 - with not correcting what is already damaged.

19 MR. THOMPSON: Thank you. Anyone else
20 who hasn't spoken who would like to say
21 something? Yes, sir

22 MR. WAESCHE: I'M Earl Waesche of the

1 National Boating Federation.

2 Some of the things that you might have
3 heard but I -- not to be repetitive but a couple
4 things I wanted to comment on again is that the -
5 - the recreational boater is and has been doing
6 or trying to do their part in keeping our
7 waterways safe and clean.

8 And one of those is the Clean Marina
9 Program. I'm sure you're familiar with it, but
10 some of our clubs on the Bay, the Chesapeake Bay
11 Yacht Club Association has endorsed it and others
12 here have endorsed it -- to have our yacht clubs,
13 our boat clubs, whatever, comply to go through
14 the process of being certified as a clean marina.
15 And my own club, Corinthian Yacht Club, down in
16 southern Maryland has been certified as a clean
17 marina because we feel like we should do our part
18 in keeping the Bay clean.

19 The other thing is that we -- I, myself,
20 do what I guess employ a best management
21 practices or my own regulations. For example, my
22 bilge -- I do get -- I think it's an approved

1 bilge cleaner that when you pour it in there, it
2 sort of mitigates any little bit of film that
3 might be on the waterway. And so when the bilge
4 pump goes off, there's no -- or at least not much
5 -- or any visible oil that I can see because of
6 this bilge cleaner that I get at West Marine I
7 think it is.

8 But when we can, we don't shower on
9 shore. I mean, really, it's more convenient to
10 shower at restrooms at our yacht club. And as
11 far as cooking, except for breakfast, we -- you
12 know, we eat at restaurants. We don't discharge
13 grease, or we don't fry whatever in oil and
14 grease or whatever going down the sink and into
15 the waterway. I think what we have for breakfast
16 is nothing, you know, that is dispensed into the
17 waterway. So we -- you know, we can't -- the
18 things that we do on the boat we can't regulate.
19 How do you regulate the time you spend in the
20 shower or, you know, how much bilge water there
21 is. I mean, we can't control that.

22 And, you know, we're -- but we're doing

1 what we can. So I just want you to know that
2 when you come up with these regulations, that you
3 are -- you're looking at people that aren't
4 polluters, that aren't try -- that -- doing what
5 they can do to try to keep our Bay clean and
6 whatever we can do to help. Thank you.

7 MR. THOMPSON: Thank you. I see a couple
8 -- a couple more.

9 And certainly that's one theme that we're
10 hearing this evening that people think boaters by
11 and large are doing a good job and are
12 conscientious and also hearing people say that
13 there's a larger picture out there and maybe
14 larger insults to the waters that people would
15 like to see addressed.

16 Sir?

17 MR. KEITH: I'd like to -- Harry Keith.
18 I'm a local boater here.

19 When you talk about the cost-benefit
20 analysis, one issue that really is an unfortunate
21 reality is that we have live-aboards and very
22 active boaters. And if you were to put on some

1 regulation that would cost 500 or \$1,000 to
2 implement for them is perhaps an acceptable cost
3 -- perhaps.

4 A very and embarrassingly significant
5 percentage of boats on the Bay go out one, two,
6 three days a year. They don't get used. And
7 when you look at what the impact of a day's use
8 it, amortize that across 10 days of use a decade
9 or maybe 50 days of use a decade. And when you
10 say for the use you're going to put in this boat
11 for the next couple of years, you're going to
12 spend 500 or 1,000 that can become very, very
13 expensive.

14 I have two boats, one of which I haven't
15 had in the water in over two years. It sits on a
16 trailer. And if I had to even -- even a hundred
17 dollar something or other that I would have to
18 do, a placard I have to go screw on the side of
19 the bulkhead to say, "See, I've done my part,"
20 would make me wonder maybe it's time to take it
21 to the dump. It's just a -- it's a thousand
22 dollar day sailor.

1 The point is that a significant
2 percentage -- a very significant percentage of
3 boats don't get used. And so you need to keep
4 that in mind when you look at what does it cost
5 to do something to a boat. That cost could be
6 amortized over three days of use a year. That's
7 it.

8 MS. MEIGEL: Hello. Okay. I just have
9 an anecdote to support what Harry just said.

10 My diesel mechanic once made the comment,
11 "You know, I think 80 percent of the boats around
12 here --" and he's talking about Annapolis, "--
13 are used for trysts." I said, "Chris, how can
14 you make such a gross over generalization?" And
15 he said, "I see those engine hours."

16 MR. THOMPSON: Yes, ma'am?

17 (Inaudible comment made off mike was not
18 transcribed.)

19 MS. GUTIERREZ: My name is Lisa
20 Gutierrez, and I have a question regarding the
21 non-motorized vessels that are addressed through
22 the Clean Boating Act.

1 And I guess what I'm curious about is how
2 some of these management practices will impact
3 vessels that use no fuel, don't use lubricants,
4 don't use -- I don't know -- any kind of
5 sanitation device. And how will you make -- how
6 will the EPA address kind of a baseline for all
7 recreational vessels when you're lumping together
8 apples and oranges?

9 MR. RAPPOLI: The -- if the management
10 practice is inapplicable to your vessel, if you -
11 - if you have a kayak, if you have a sailboat
12 without an engine, then any type of management
13 practice related to an engine or a system that is
14 not on your vessel is not applicable to your
15 vessel. You have no compliance requirements
16 whatsoever.

17 (Inaudible comment made off mike was not
18 transcribed.)

19 MR. RAPPOLI: We want to categorize them
20 by general types of discharge. We think that
21 might be the most useful way for boaters to sort
22 of run through them and go, "Does this apply to

1 me? If not, I don't even have to read that page.

2 I can go to the next."

3 (Inaudible comment made off mike was not
4 transcribed.)

5 MS. GUTIERREZ: In the act language it
6 lumps all recreational vessels together in that
7 definition without breaking them out. So you're
8 saying that when the regulations come out, you
9 will address them separately?

10 MR. RAPPOLI: Well, we don't -- we
11 haven't got to that point, but right now sort of
12 the plan is to write them as a set of practices,
13 and where applicable the boater would, you know,
14 apply them to their boat. If it wasn't -- we
15 don't want to get into a very complicated, you
16 know language. If then, else, do this. If not,
17 then do that. We think that just becomes
18 cumbersome and difficult for -- I know I don't
19 like to follow instructions like that. So we're
20 trying to write it in the most user-friendly way,
21 and we think that if we just, you know -- if a
22 section is headed, you know, engine maintenance

1 practices, if you have a sailboat without an
2 engine, you just skip that section. It doesn't
3 apply to you.

4 MR. THOMPSON: Yes, sir.

5 UNIDENTIFIED SPEAKER 2: I have two
6 comments. One is back on the topic of anti-
7 fouling paint. It seems to me that if copper or
8 copper derivatives were outlawed -- I've done
9 some research looking at what the alternatives
10 are, and right now the studies that I see are by
11 no means definitive. It's not clear that there
12 is, in fact, a practical alternative.

13 So I think you have to consider when the
14 regulations are imposed that, in fact, there's a
15 way to comply with it. To say that --
16 hypothetical case that you have to hold the gray
17 water. Well, at least I can imagine how to do
18 that. But in the case of bottom paint, I can't
19 imagine going to my chemistry set and trying to
20 make something that would comply. Either it has
21 to exist -- and right now it seems to me the
22 technology doesn't yet exist in that area.

1 A completely different area is that when
2 I'm listening to what you're saying, I can only
3 imagine the worst. And so that means, my God,
4 I'm going to have to spend thousands of dollars
5 to comply with this stuff.

6 And even if the last woman was talking
7 about things don't even apply to her boat, and
8 now I have to do all this stuff.

9 And you're saying, "No, no, no, it's not
10 that case at all."

11 I think it would be helpful on your side
12 to come up with some examples of how this will
13 work. And when you're talking about gray water,
14 these are the kinds of things that we're
15 addressing, like limiting the kinds of soaps that
16 you use, not to trap the water necessarily, but
17 if you don't say that, I can only imagine that
18 I'm going to have to do things that I really
19 don't want to do.

20 So, if possible, to make some simple
21 solutions to these various topics -- I realize
22 the regulations don't even exist yet, so it might

1 be putting a little bit the cart before the
2 horse, but if you want to get a much more, I
3 think, acceptance of these ideas, to give us some
4 notion of where it could go and how you envision
5 these solutions.

6 You've said some things. Well, we don't
7 think it's going to go that way. Well, all
8 right, that helps me, but in some of these other
9 regulations, I can only imagine what has to be
10 done.

11 And anti-fouling paint in particular.
12 There is no solution to this. So if copper is
13 ruled out, you know, take the boats out of the
14 water, sink them. Whoa, that's against
15 regulations. Sorry, don't do that.

16 Anyway, I think you need to be really
17 cognizant of what is practical and to give us
18 some ideas as to where it could go. I think that
19 would be helpful.

20 MR. THOMPSON: Thank you. So the hope
21 being that some examples might make it more
22 alarming in theory than in practice once you hear

1 some examples. Okay.

2 UNIDENTIFIED SPEAKER 2: And now I can
3 only imagine the worst.

4 MR. THOMPSON: Yeah. Yes, sir.

5 MR. DAUGHTERY: Sandy Daughtery again.

6 I hope that in a very hard scientific
7 study you can assign some real numbers to the
8 actual utilization of vessels. It's been very
9 difficult in the agency that I work for to come
10 up with a meaningful expression of frequency of
11 occurrence or accident rates because we really
12 never could nail down exactly how many hours were
13 being flown by airplanes. And that was fairly
14 easy to figure out.

15 I just hope that you can develop some
16 science that will give us a good feel for the
17 actual amount of time and the rates of exposure
18 that private boats could contribute to this
19 issue. Thank you.

20 MR. THOMPSON: Thank you.

21 MR. STUCHELL: Sheldon Stuchell, a boat
22 owner here on the Bay again.

1 Brian, you guys have been doing this now
2 for, I think, over two years working on the
3 issue; is that correct?

4 MR. RAPPOLI: Yeah, about two years.

5 MR. STUCHELL: Probably so. So, you
6 know, I do feel sorry for those that don't have
7 any engine hours because they can't afford to go
8 out or they don't want to get a sailboat. I'm
9 sorry. That's the way it goes.

10 But if you could, you know, I started
11 getting into it last time I was up and I was
12 asked to sit down and hold off and we could get
13 back to it.

14 If we could go back a few slides to the
15 slide that has the discharges, and in the two
16 years that you've been working on this, I know
17 that you've gotten some input. I know that
18 BoatUS, who because of BoatUS I'm here tonight,
19 so I really appreciate their getting the word
20 out. And I am disappointed that more boaters
21 didn't come.

22 But if we could go back to that slide and

1 just some ideas -- and I think you just heard it
2 from some of the other boaters -- if you could
3 just say, "You know what? For this discharge
4 here are some things that other states are doing
5 or some things that some scientific data has
6 shown us could be used to take care of this kind
7 of discharge." And if we could just kind of give
8 us some ideas. What are you really -- you know,
9 what's out there? What are the options that
10 should be considered? Maybe not what you
11 envision it again but just some of the things
12 that here are some things that could be
13 considered, whether they should or not, I think
14 that's always going to be up for debate. The
15 cost is always going to be a big thing.

16 But, Brian, could we do that? Could we
17 just go back to that and just kind of say,
18 "Here's what some of our science has done.
19 Here's what the study --" I mean, we heard about
20 a study over here from the lady from EPA that
21 said we did a discharge study. And the discharge
22 study said that overall big boats really have

1 gray water problems; little boats have a little
2 bitty problem; but we're going to get them.

3 (Laughter.)

4 MR. STUCHELL: So, we -- you know, if we
5 could do that just some idea?

6 MR. THOMPSON: I think they're Googling
7 an answer to that question right now, so --

8 MR. STUCHELL: They are. Talk -- are you
9 the attorney?

10 (No audible response.)

11 MR. STUCHELL: You're the attorney.
12 Okay.

13 MR. LISHMAN: I actually work in the
14 program, so I just pretend to be the attorney.

15 MR. STUCHELL: Okay.

16 MR. RAPPOLI: With the disclaimer that
17 yes, this is deliberative phase and there has
18 been no determination by the agency, if you look
19 at some of these slides, and if we even -- I gave
20 the URLs for Maryland, and Virginia, and D.C.,
21 you can read the guidance. And that really is
22 framing how we're looking at it.

1 Bilge water -- it's basically prevent the
2 problem so that you don't have a problem when you
3 discharge your bilge water. You know, process
4 that you can put in place so that you minimize
5 the amount of oil that might enter your bilge.

6 Are there -- when you're changing -- if
7 your boat allows you, can you change the oil
8 while it's on land opposed to while it's on the
9 water? If you're changing your oil, can you do
10 it in a manner using appropriate (inaudible) that
11 minimize the risk of a spill so it doesn't get
12 into your bilge?

13 Do you use some type of absorbent pad?
14 Do you have a bilge sock, or if you have a larger
15 vessel, do you have some type of skimmer device?

16 I sort of crossed the line with engine
17 practices there. You know fueling -- if you have
18 a motor boat, do you -- do you fuel, you know,
19 your extra tanks while they're on the water, or
20 do you fill them on land?

21 Cleaning and maintenance -- are their
22 maintenance practices that can be done on land

1 rather than while you're on the water to minimize
2 the chance of debris, caustic, toxic chemicals
3 entering the water? Can you use green chemicals
4 when you are doing it?

5 There is lots of guidances that state
6 agencies are already putting out in terms of what
7 you can use.

8 Anti-fouling -- someone brought this up
9 earlier and it's absolutely true. There is this
10 sort of give and take with anti-foulants.
11 They're extremely valuable tools. They save
12 boaters a lot of money and save boaters a lot of
13 time in terms of cleaning. You don't waste fuel
14 because of all the extra drag. And they also
15 help control the transport of invasives. They
16 provide a lot of benefit to the boating
17 community.

18 The question is can you use a boating
19 product -- you know, depending upon how you use
20 your boat, where you're using it, are you using
21 the most reasonable coating.

22 Sort of an analogy, do you have to use a

1 shotgun when a .22 would work? Different types
2 of paint, different leach rates -- consult with,
3 you know, paint professionals. Consult with the
4 people who operate your marinas. They can give
5 you good advice.

6 Gray water -- lots of states right now,
7 what they recommend to their boaters simply
8 minimization. I don't know any state that has
9 green boating practices that say you can't
10 discharge.

11 MR. STUCHELL: So, you're -- so as a
12 boater, I can tell you I keep a very clean bilge
13 on all -- on all my boats. And I don't know that
14 I've ever really pumped any kind of oily -- any
15 oily waste out of my bilge. So -- and it's
16 mostly because of engine maintenance and, you
17 know, repair activities and the way I keep it
18 clean. So I wouldn't have that problem, and I
19 can understand.

20 So if the -- if the intent is going to be
21 not pumping oily waste out, and I think that's a
22 very valid thing. And if it's a matter of

1 controlling how we do maintenance and how we keep
2 oil out of the bilge and it's not a matter of
3 bilge water discharge but it's a matter of
4 regulating oily waste in the bilge, it's a
5 different story, and it can be done.

6 It would be easy to be able to go out and
7 regulate and say that boat cleaners all must be
8 green and they've all got to be able to meet
9 certain specifications. Well, the problem with
10 that is somebody's going to go down and buy the
11 409 at the 7-Eleven and that's what they're going
12 to use to clean with, and they're not going to
13 clean with the boat cleaner. So, you know,
14 you've got to make sure that it's the user of the
15 product that's going to do the right thing and
16 keep it clean.

17 So I understand those things and I just
18 want to make sure that when we hear where you're
19 coming from, I think it's -- it's good. I think
20 that understanding that we can't -- and we can't
21 afford and in a lot of cases architecturally we
22 can't go in there and put any kind of holding

1 tanks in, so everybody's -- wonders about that.
2 How do we take care of gray water? How do you
3 take care of bilge waste, all these different
4 things because you really can't do it. I can't -
5 I can't go to my Beneteau sailboat and try to rip
6 -- rip it apart and put an extra holding tank in
7 there to hold all the extra waste that we're
8 talking about.

9 But at the same time, it's a matter of
10 one doing what's right. And like everybody else
11 here has said, I don't know any boaters that
12 aren't doing what's right. All of them that I
13 know of are really doing a good job of not
14 putting any waste in the water.

15 At the marina that I'm at down in
16 Solomon's, they all use the Coast Guard Auxiliary
17 and come in, and they inspect their boats and
18 make sure that they can't -- one way or another
19 they can't pump their waste into the -- into the
20 -- into the Bay, into the creek, into the river.
21 So I mean, it's there. We're doing -- we're
22 doing what you want.

1 Minimize gray water discharge. Well,
2 mine is minimized because my holding -- my -- my
3 water tank isn't that big. And the most that I
4 can pump out is going to be what I collect. You
5 know, I mean, it's how big is my water tank.
6 I've sailed from Solomon's down to Crisfield, and
7 I get there, and I was, "Oh, my gosh, I'm out of
8 water. I've got to fill up." So, I mean some of
9 it is simple things, but --

10 MR. THOMPSON: You know, I think we
11 have a few others who want to get in before the
12 top of the hour.

13 MR. STUCHELL: Nobody else counts. Wait.
14 I --

15 MR. THOMPSON: All right. Thank you.
16 Yes, sir?

17 MR. KEITH: Harry Keith again. Following
18 up on -- and I've gathered this going through the
19 meeting. A lot of the stuff you're talking about
20 is mindset. And that's perhaps a good thing.
21 Right now I know that if I throw a trash can
22 overboard -- a trash can -- a trash bag

1 overboard, I'm breaking the law. I know I'm
2 breaking the law. I can be fined for it. And
3 that's -- I can understand that.

4 If I don't have the MARPOL or whatever
5 it's pronounced, the pollution placard sticker
6 glued to the side of my cabin side so that I know
7 that I can only put things out in certain areas,
8 I know that I can be fined or cited by the Coast
9 Guard or whoever inspects me for not having that.
10 I know that and I know when I am and am not
11 breaking the law.

12 All the examples -- and you've said them
13 before, and now they're more clear. These are
14 guidelines. Am I going to be cited for choosing
15 to change my oil this week when I'm in the water
16 instead of waiting till next week when I'm going
17 to be hauled and can change my oil out of the
18 water?

19 Am I going to be cited for not
20 remembering to separate my recyclables and my --
21 and I put 80 percent or more of my trash goes to
22 recycling, so I'm a believer in that kind of

1 stuff, but am I going to be cited because I put
2 it all in one trash bag and when I get home I
3 pluck it out and you can't tell that when you
4 board me or the Coast Guard boards me to see if
5 I'm complying with the separate recyclables?

6 These are guidelines. And if that's
7 where we're going, maybe that's a tremendous
8 weight off of our shoulders. But I don't know
9 how I'm -- I'm still -- we're all projecting the
10 worst. I can see myself being cited by the --
11 and the Coast Guard doesn't worry me. It's the
12 Gestapos at the local cities that don't know how
13 to drive a power boat when they board you that
14 are really scary. And if you think I'm joking,
15 listen more often because it's serious. They're
16 the ones that worry me. When they're going to
17 come aboard and say, "I see you have a tin can in
18 your trash can. Here's your fine." And that's
19 what worries me because I don't know when I've
20 broken the law if the law is written the way
21 you've described and the way a lot of the stuff
22 you see from the states which says, "Here are

1 some thoughts."

2 MR. THOMPSON: Thanks. Yes, sir, and
3 then --

4 UNIDENTIFIED SPEAKER 3: We're glad that
5 you-all came to listen to us, and we're probably
6 getting somewhere near the end.

7 MR. THOMPSON: Close.

8 UNIDENTIFIED SPEAKER 3: I think it would
9 be of interest to us who have spoken to -- and I
10 know you guys have been furiously taking notes --
11 to know what your take-away is of our messages.
12 You've sunk the -- Mr. Facilitator have made a
13 few little summaries, but I'm just wondering what
14 the government's take-away is from our -- I mean,
15 I think there are at least half a dozen good
16 take-away messages and maybe a few more. If it's
17 not appropriate to ask you to do that, fine.

18 MR. THOMPSON: Thank you. Well, we are
19 going to reserve a couple of minutes at the end,
20 which we're getting pretty close to. So, let me
21 just ask is there anything that anyone's -- is
22 anyone going to feel unfulfilled if they don't

1 get a chance to step up and say something else
2 before you leave? Yes, sir. A couple more.

3 UNIDENTIFIED SPEAKER 4: One caution. Be
4 careful that you don't pay too much attention to
5 somebody who stands to make a pile of money by
6 selling some gadget that now is required that
7 boats have when -- when -- because that is a big
8 danger. Some of the biggest pressure will come
9 from these guys who all of a sudden see gray
10 water tanks as a big lucrative multimillion
11 dollar business, and they're going to push for
12 it, and it's going to sound like the boaters want
13 it because they represent a bunch of boaters, but
14 the boaters don't want it at all. Anyway, thank
15 you.

16 MR. THOMPSON: Thanks.

17 AUDIENCE: Don't wear ties next time.

18 (Laughter.)

19 MR. THOMPSON: Duly noted, yes.

20 MR. GAUDETTE: Bob Gaudette, Director of
21 Boating Services for the Department of Natural
22 Resources.

1 We're responsible for a variety of
2 activities, including the Clean Marina Program,
3 the CVA Program for pump outs.

4 I think it's important for everybody to
5 realize that we have about 300 pump outs in the
6 state, and that's certainly more than most in the
7 country. And we obviously do know that there are
8 some out there that aren't working, and we
9 actually have folks going out there, and they're
10 actually checking them now like you would if --
11 when you see your gas pump checked. And they
12 actually put a sticker on it, and they actually
13 make sure it works. We know there are some out
14 there that aren't working, and we're going to
15 make every effort to make sure that they are
16 working so that when you go to a pump out that it
17 is working.

18 I think that a lot of the people here are
19 certainly -- if I had a sense of what's going on,
20 we obviously do the -- the same thing happens at
21 the state level when we do regulations. There's
22 that anxiety, the unknown of what's going to

1 happen.

2 And I would certainly hope that you would
3 take into account the fact that nationwide the
4 boating industry is really hurting right now.
5 And it's hurting in the sense -- almost at every
6 level, not only with the merchants but also the
7 individual boaters and whether they're going to
8 stay in boating or get out of boating.

9 And from a state standpoint -- I know it
10 came up several times already about the
11 enforcement issue. A big focus of the Coast
12 Guard right now is really on homeland security,
13 boating safety. They very, very, very rarely get
14 involved in any kind of discharge issues with
15 recreational boats so a lot of that's going to
16 fall on the state. And the state is dealing with
17 its own issues with dollars and cents.

18 So one of the things I think that would
19 be important for you to consider in your overall
20 process is what is the impact that this is going
21 to be not only on the industry, on the boaters,
22 but also on the agencies that have to enforce it.

1 You know, are there going to be any dollars
2 there? Is there going to be any consideration of
3 that? Because right now we're in a situation
4 where we're probably down 50, 60, 70 officers
5 because we can't afford to hire them just to do
6 the basic boating safety issues, et cetera.

7 So, I wish, you know, that you would --
8 I'll tell you this, that our department would
9 certainly like to work with you as you go through
10 this process. We're certainly going to have
11 someone here for the next hearing you have. And
12 we'd be very happy to provide, you know, any
13 assistance that we can with our expertise in
14 working with BoatUS, Marine Trades, Chesapeake
15 Bay Yacht Clubs Association, you know, all their
16 membership and anyone else that we can work with
17 to provide you with any information we can.

18 You already have my card. Thank you.

19 MR. THOMPSON: Thank you. You know, I
20 think we're probably at that -- at that point
21 where it would be wise to turn it back to EPA for
22 a few final thoughts, which it sounds like some

1 of you are eager to hear.

2 And I'll just say thank you, everyone,
3 and good stuff in terms of what you've said
4 tonight.

5 MR. BROWN: Can I take my tie off now?

6 A little bit about myself. My name is
7 Darrell Brown. I've worked with the agency for a
8 number of years, but I'm an oceanographer by
9 training, so I have served on some of the bigger
10 vessels. I was talking to one of the folks here
11 tonight, and unfortunately, my wife suffers from
12 severe motion sickness, so I cannot be a boater
13 and include her with that. So I would like to be
14 a boater, but I can't be.

15 But one thing that I wanted to do, first
16 of all, is thank you for all your time. I know
17 it's the first really nice warm Friday night
18 here. It's March Madness as been indicated, and
19 I thank you for your time.

20 We have -- this is our first session, and
21 we have already learned some lessons from this
22 session tonight that we'll take back and -- and,

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1 like, handouts, additional handouts, some -- I
2 think the suggestion on examples and kind of
3 going through some of those. I know Mr. Marlett
4 talked about all I can think of is the worst.
5 And I don't -- that's not where we want to come
6 down. We -- as Paul indicated earlier, we want
7 to do something that's practical, sensible, and
8 make sense out there.

9 In terms of some of the -- there are a
10 lot of good thoughts and suggestions that came
11 out tonight. We want a rigorous, defensible,
12 analytical process. We're looking for an open
13 process, and this is one of the parts of that --
14 these public sessions like this. Reasonable,
15 practical, and economical is another theme that I
16 heard, you know, kind of over and over again from
17 a number of people.

18 Again, looking at lots of specific cases
19 in terms of how this might work with the various
20 classes of discharges that we're looking at.
21 There was -- oh, there were several people that
22 indicated that the recreational boating community

1 is not the major source of problems. We need to
2 look at the entire scope of pollution affecting
3 water bodies, whether it's here in the
4 Chesapeake, obviously, but we're also looking, as
5 indicated earlier, that we're looking at 17
6 million vessels around the U.S. from cold water
7 to warm water, fresh water to salt water, lakes,
8 streams, bays, and embayments. So there's a
9 whole range of activities and vessels and -- that
10 we need to look at. So we got a good flavor of
11 some of those comments here tonight.

12 The other thing I heard is that -- from
13 all of you indicated that you, yourselves, and
14 you think your community are doing a good job.
15 And so there's some sort of education component
16 to that that's needed when we work on these
17 regulations.

18 Something that Brian indicated but I
19 think is worth stressing is that we're very early
20 in the process. Congress gave us some pretty
21 wide sideboards to take a look at in terms of
22 different practices and discharges to look at.

1 And what we're trying to figure out are what are
2 those -- how can we narrow those sideboards if
3 need be. Do we need to expand the sideboards?
4 Are there -- you know, what do we need to do at
5 this point? So we're really early in the process
6 trying to collect the right information so that
7 before we go out with the next step, the actual
8 proposed regulations, we'll have the benefit of
9 listening to you and other people around the
10 country.

11 I wanted to close off and just remind you
12 that we will be conducting a follow-up listening
13 session here in Annapolis on April 29th. Is that
14 here? Okay, at this hotel. Okay. Same time?
15 Same time, same place. Okay.

16 We are also going to be doing webinars
17 that you can see it on the back of your agenda
18 that we'll be doing a series of webinars.

19 MR. RAPPOLI: You need to go to our
20 website to see if you want to sign up, or if you
21 have friends -- you've got friends who couldn't
22 make it tonight and they'd like to see basically

1 the same thing, they can do it from the ease of
2 their home if they have a computer with internet
3 access.

4 And if you go to our website which is at
5 the back page, bottom, the URL there, you can
6 just click on it and register for one of our
7 webinars.

8 MR. BROWN: So some of the trade
9 associations out there, we appreciated hearing
10 from you tonight. So maybe that's one of the
11 things that you can help us in getting the word
12 out to the boating community about our webinars
13 that we'll be holding on that stuff, too.

14 So, with that I'll end this evening's
15 session. And, again, thank you very much for
16 your time. We very much appreciate it. Thank
17 you.

18 (Applause.)

19 MR. THOMPSON:

20 [Whereupon, the meeting was adjourned.]

21