

CLEAN BOATING ACT  
LISTENING SESSION

April 29, 2011

Doubletree Hotel  
Annapolis, Maryland

Eastern Research Group, Inc.  
110 Hartwell Avenue  
Lexington, MA 02421

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**SPEAKERS:**

Paul Cough, USEPA  
 Doug Thompson, The Keystone Center  
 Brian Rappoli, EPA  
 John Lishman, EPA  
 Darrell Brown, EPA

**CBA LISTENING SESSION PARTICIPANTS:**

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 William Booth, Boater  
 Nicholas Canastraro, Annapolis Resident  
 Bob DeYong, Maryland Clean Marina Initiative  
 Rick Droter, Pleasure Cove Marina, Dock Master  
 Cameron Easter, Boater, U.S. Park Police,  
 Federal Law Enforcement  
 Larry Embrey, Boater/Captain  
 Sherry Embrey, Boater  
 Debra Falatko, ERG  
 Barbara, Fitchitt, Boater  
 Drew Fleming, Boater, Weems & Plath  
 Sidsel, Fox, Boater  
 Bob Gannett, Chesapeake Yacht Club  
 Linda Gannett, Chesapeake Yacht Club  
 Bob Gaudette, Maryland Department of Natural  
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 Ron Gollehon, Yacht Clubs  
 Logan Hottle, Private Citizen  
 Jay Kehol, Annapolis Yacht Club  
 David Kennedy, Boat US  
 Steve Kling, Boater  
 Pete Lattimer, Boater  
 Dan Lunsford, Private Citizen  
 Jaye L. Lunsford, Life Afloat/Private Citizen  
 Vernon McCarty, Riverside Yacht Chat  
 Bill Petersen, Chesapeake Yacht Club  
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 Thomas Raley, Hartge Yacht Harbor (HYH)  
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 Bob Swarm, Boater  
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**Clean Boating Act  
Public Listening Sessions**

Annapolis, Maryland  
Friday, April 29, 2011  
7:00 PM to 9:00 PM

Agenda

Welcome - Paul Cough, Director, Ocean and Coastal  
Protection Division

Introduction - Doug Thompson, facilitator

Briefing- Brian Rappoli, CBA Team Lead, Marine Pollution  
Control Branch

Questions - Paul Cough, Darrell Brown, John Lishman, Brian  
Rappoli

Public Comments - open to all participants

Closing Comments - Darrell Brown, Deputy Director, Ocean  
and Coastal Protection Division

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By E-mail

[ow-docket@epa.gov](mailto:ow-docket@epa.gov)

Use "Attention Docket ID No. EPA-HQ-OW-2011-0119" in the subject line.

By Mail

Address letters to:

Water Docket, Environmental Protection Agency

Mail Code 2822-1T

1200 Pennsylvania Ave., NW.

Washington, DC 20460

Attention Docket ID No. EPA-HQ-OW-2011-0119.

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<http://www.epa.gov/otaq/regs/fuels/additive/e15/>

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

2 MR. COUGH: Hi, everyone. Can you hear  
3 me in back? Is it clear? Thank you. I'd like  
4 to welcome you all here tonight. I'm Paul Cough,  
5 Director of the Oceans and Coastal Division of  
6 EPA. Really glad y'all could come out here  
7 tonight.

8 We chose a time outside of the normal  
9 working day to make it easier for everyone to --  
10 to get over here so we could get your initial  
11 input on -- give you background information that  
12 is in the Clean Boating Act, explain our approach  
13 for developing management practices the Act  
14 requires us to develop and to get that -- get  
15 your input.

16 Just a little background. The Clean  
17 Boating Act was passed by Congress and signed  
18 into law by President Bush in 2008. In passing  
19 the Clean Boating Act Congress intended to do two  
20 things. First, to avoid the necessity of  
21 regulating recreational vessels under Clean Water  
22 Act permits, and second, to better manage the

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1 potential release of pollutants from recreational  
2 vessels to protect the aquatic environment. And  
3 the regulations -- excuse me, the management  
4 practices we're talking about here would be  
5 applicable from Chesapeake Bay to Lake Tahoe to  
6 American Samoa to the Kennebec River up in Maine  
7 where I grew up.

8           And when I grew up, it was not a place  
9 you'd want to take recreational boats. In the  
10 '50's and '60's it was covered with logs, and  
11 when it wasn't covered with logs from the logging  
12 drive down the river, it was covered with  
13 pollution from paper mills, from sewage. It  
14 wasn't the sort of place you'd want to take a  
15 recreational boat, but these days it's a great  
16 place. I go up there to visit family. I go  
17 swimming. There are a lot of -- lot of boats in  
18 the river. They put smelt shacks out for fishing  
19 and fish there. So it's really a whole different  
20 situation, a place you'd like to be as opposed to  
21 a place to get away from when I was growing up  
22 there -- at least the river itself.

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1           So, a little bit more: This is about  
2 recreational vessels. We know there are a lot of  
3 other sources of pollution, a lot of land-based  
4 sources. There is the runoff from storm water.  
5 There are wastewater treatment plant discharges,  
6 agricultural operations, lots of other sources.  
7 And those are being dealt with in other ways.  
8 This, specifically, is about pollution from  
9 recreational vessels.

10           I'd like to share now our vision for the  
11 management practices that we're developing. What  
12 we're looking for is to achieve and to foster a  
13 common sense of stewardship of the aquatic  
14 resources that we all enjoy. And the management  
15 practices would help everyone who works and plays  
16 either in or by the water to work together to  
17 maintain or improve water quality. And with your  
18 input we want to develop reasonable management  
19 practices that will build on current clean or  
20 green boat-keeping practices. And we believe  
21 that doing this will help insure that everyone  
22 can enjoy safe and clean water.

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1           In these listening sessions we're holding  
2 here and the webinars we hope to learn from you-  
3 all what kinds of stewardship practices that you  
4 think could be adopted on a national scale.

5           I look forward to hearing from you in a  
6 moment, your thoughts about how we can go about  
7 this. But now I'd like to turn the floor over to  
8 Doug Thompson, our facilitator. Thank you.

9           MR. THOMPSON: Thank you, Paul. And good  
10 evening, everyone. I see a few familiar faces  
11 from our first session back on March 18<sup>th</sup>. Those  
12 of you who were here that night know we were  
13 facing in that direction, so it's not your  
14 imagination that we -- we flipped things around.  
15 Although, otherwise the plan for the evening is  
16 pretty similar.

17           You know Paul mentioned that he grew up  
18 in Maine. And a few months ago there was a story  
19 in the Boston Globe that someone who thought all  
20 these years he lived in Maine was -- he was right  
21 on the Maine-New Hampshire border, and they did  
22 some resurveying of his land, and it turned out

1 that he lived in New Hampshire after all, not  
2 Maine. And his response to the reporter was,  
3 "Thank God. I couldn't stand another one of them  
4 Maine winters," which is sort of classic Maine  
5 approach to viewing the world I think.

6 So again, thank you-all for coming out on  
7 a Friday evening. We know there are other  
8 attractions. Hopefully none of you turned down  
9 your invitation to London for the royal wedding  
10 in order to be here, but -- and it's, I guess day  
11 two of the NFL draft, but we appreciate you  
12 taking the time to come out here and especially  
13 those of you who are coming out for a second time  
14 in a row to listen to what EPA has to present and  
15 then, more importantly, offer your thoughts.

16 So I just want to run through a little --  
17 couple very quick slides to get us oriented, and  
18 then we'll kick off the evening. Hopefully it's  
19 not a great mystery why we're all here tonight,  
20 but, you know, basically it's a chance for EPA to  
21 hear from you at a certain extent the outset for  
22 you to hear from EPA and for all of you to listen

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1 to each other as well. So we're going to  
2 hopefully be listening in various directions. It  
3 will be a chance to learn about the status of the  
4 Clean Boating Act and the anticipated next steps.  
5 We'll have an opportunity after that for you to  
6 ask any sort of clarifying, factual questions.  
7 And then we'll move into the bulk of the evening  
8 where you'll have a chance to provide your own  
9 thoughts and ideas. So it's a chance to bring  
10 together interested parties on this issue and,  
11 again, to hear your ideas.

12           And we're sort of at a -- you know sort  
13 of the good news and not so good news I suppose  
14 is the same, which is not everything has been  
15 decided yet. So that's good because it gives you  
16 an opportunity to have input into this process  
17 and have your thoughts considered and hopefully  
18 exert some influence.

19           It also may mean you may have some very  
20 specific questions tonight that EPA may not be in  
21 a position to answer with precision just yet  
22 because they're still sorting their way through

1 some of these -- some of these matters  
2 themselves.

3           So I have the initial presentation, and  
4 then we'd like to open it up for those clarifying  
5 questions. So at the outset I'd like you to hold  
6 your comments if you would and just -- if you  
7 have any specific questions about what you've  
8 heard, let's get those out. Everyone might  
9 benefit from hearing the answers. And then we'll  
10 move into the -- what we call here the open mike  
11 session. We have two of them set up here where  
12 we can hear your thoughts, your recommendations  
13 and ideas.

14           We asked you at the outset if you were  
15 interested in making an oral statement to sign up  
16 or check that little box. So I've got those  
17 names up here. Apologies in advance if I mangle  
18 any of your names. And we'll ask first those who  
19 indicated they wanted to speak to do so, and then  
20 we'll open it up more generally. Some of you may  
21 decide you might have something you want to say  
22 after all. So we'll give you that opportunity

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1 before we end the evening. And then we'll turn  
2 it back over to EPA for some closing comments.

3 My role is just to be your facilitator  
4 this evening again. I'm the neutral and  
5 independent party in the room and will facilitate  
6 the meeting. I may, as we go along, occasionally  
7 note some of the themes that we might be hearing  
8 from you, some areas where there may be some  
9 agreement in the room and maybe some differences  
10 as well. This is not a consensus. This is a  
11 building session. This is a listening session,  
12 but sometimes it's helpful to note -- reflect a  
13 little bit what we're hearing.

14 And I'll keep an eye on the clock. This  
15 meeting is scheduled to go to 9:00 o'clock. And  
16 we can certainly take that -- that full measure  
17 of time. It may end sooner, but we'll make sure  
18 that we get you out of here by 9:00 o'clock.

19 Then in terms of just a few guidelines to  
20 hopefully have us help -- help have us a  
21 productive evening, I'd like you to kind of share  
22 the floor, of course, and all the other customary

1 courtesies. Everyone did a great job with that  
2 last time.

3 We'll ask you to have a time limit of  
4 roughly three minutes for your -- your comments.  
5 And I'll keep an eye on the clock, and I can let  
6 you know if you're bumping up to that three-  
7 minute limit. So if you have longer written  
8 statements that you're working from, we'll ask  
9 you to come summarize those.

10 If three minutes is not a sufficient  
11 amount of time, we can, again, time permitting,  
12 we'll circle back, give you a chance to get to  
13 the mike again.

14 Ask you to keep beginners mind. This is  
15 a concept from Suzuki some of you may be familiar  
16 with, but a lot of you, you know, you're here  
17 because you have expertise on these issues. And  
18 we want to draw on that expertise, but we're also  
19 entering, you know, some uncharted waters here  
20 with the Clean Boating Act, and, you know, EPA is  
21 trying to fulfill its statutory obligations but  
22 at the same time come up with things that are

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1 going to be workable and not burdensome on you.  
2 And so we're interested in your thoughts about  
3 how to do that.

4           Seek understanding, both listening and  
5 hearing. And then we'll ask you to try to stay  
6 on this topic of the Clean Boating Act this  
7 evening. Obviously there are many issues  
8 affecting the near shore and marine environment.  
9 And as Paul mentioned a moment ago, you know,  
10 those are being addressed in other venues, and  
11 they're obviously very important, but tonight the  
12 focus would be on the Clean Boating Act.

13           So with that I'll turn it over to Brian  
14 Rappoli who's going to give you a brief tutorial  
15 on where things stand with the Clean Boating Act.  
16 Thanks.

17           MR. RAPPOLI: Good evening. If I'm  
18 getting a little low and you can't hear me, just  
19 give me a hand signal and I'll raise my voice.

20           Let me just add my thanks to everyone  
21 else's for you taking time out of your day to be  
22 here with us tonight. If you were at our last

1 meeting --

2 UNIDENTIFIED MALE: Speak up.

3 MR. RAPPOLI: Oh, sorry.

4 UNIDENTIFIED FEMALE: Hey, talk louder.

5 MR. RAPPOLI: How about now? Is that  
6 okay?

7 If you were at our last meeting, I will  
8 apologize because this is essentially the same  
9 briefing that I gave last time. So hopefully  
10 you're not too bored as I go through it. And for  
11 those of you are here for the first time,  
12 hopefully there's some information that'll be  
13 useful for you today.



1 Before I actually get into the briefing, I'd just  
2 like to talk about a couple of things. We get a  
3 lot of e-mails ever since we've started this  
4 outreach process at EPA. And many of the e-mails  
5 begin with, "I've been told," "I got an e-mail,"  
6 "I read something on the web, and EPA is going to  
7 --" and then fill in the blank with whatever you  
8 would like to fill in the blank with. Sometimes  
9 they're you know genuinely interesting ideas.  
10 Sometimes they're really off base. We're at a  
11 pre-decisional stage so anything that you're  
12 reading in an e-mail, something a friend told you

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1 -- "EPA is going to do the following" -- one of  
2 my favorites is we're going to require you all to  
3 install gray water holding tanks. That's not  
4 true. We have not made any decisions, and our  
5 focus is on common sense, good stewardship  
6 practices. We're not really looking at expensive  
7 equipment, expensive retrofits. If you, as  
8 stakeholders, believe that we need to look at  
9 those, we will certainly consider it if you  
10 provide us information that would help us  
11 evaluate that, but that's not what our focus is  
12 on.

# Existing Regulations



1 The regulatory landscape most boaters are, you  
 2 know, quite aware of what they need to do under  
 3 state and federal regulations, whether it be a  
 4 MARPOL regulation, a Clean Water Act regulation.

5  
 6 This is actually a brochure that was  
 7 published by the California Coastal Commission.  
 8 Most states put out guidance like this for  
 9 boaters. It tells you everything you need to  
 10 know. It's really concise and, you know, these  
 11 are the rules that boaters need to obey. Well,  
 12 this is the landscape, and the Clean Boating Act

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1 really isn't going to change this landscape too  
 2 much in our opinion.

## Clean Boating Act History

- In 2005 a Federal court determined that EPA lacked authority to exempt discharges incidental to the normal operation of a vessel from regulation under the Clean Water Act (CWA).
- In 2006 the court struck down the exemption. As a result, EPA was required to regulate discharges incidental to the normal operation of certain vessels using CWA permits.
- In 2008, Congress passed the Clean Boating Act (CBA).

3

3 Give you a little bit of background -- how did  
 4 the Clean Boating Act come to be? Well, it  
 5 started off as a petition by Northwest  
 6 Environmental Associates and a number of the  
 7 Great Lake states asking that EPA regulate mostly  
 8 ballast water discharges from larger vessels.

9 Well, EPA denied that petition and  
 10 ultimately was sued --

11 UNIDENTIFIED FEMALE: Excuse me.

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1 UNIDENTIFIED MALE: Please stand closer  
2 to the microphone.

3 MR. RAPPOLI: I think if I got any closer  
4 I might hit it, but I'll try.

5 UNIDENTIFIED FEMALE: Nobody can hear  
6 you.

7 UNIDENTIFIED MALE: We cannot hear you.

8 MR. RAPPOLI: How about now?

9 UNIDENTIFIED MALE: (Inaudible.)

10 MR. RAPPOLI: Okay. I apologize.

11 The -- as I was saying, we were  
12 petitioned, and we denied the petition. We were  
13 sued, and we lost. We appealed and we lost. As  
14 a consequence of this decision, we're in a  
15 position where all boats in the United States,  
16 whether they be commercial or recreational, would  
17 have had to have a Clean Water Act permit to  
18 legally operate a vessel. This was not, you  
19 know, a very good situation. EPA very rapidly  
20 had to get out a permit for commercial vessels,  
21 and we were on the cusp of putting out a permit  
22 for recreational vessels.





## How Congress Changed the CWA

- New CWA § 402(r):
  - No permitting of discharges incidental to the normal operation of recreational vessels (henceforth, “discharges”)
- “Recreational Vessel” (CWA § 502) means any vessel that is:
  - Manufactured or used primarily for pleasure; or
  - Leased, rented, or chartered to a person for the pleasure of that person
  - However, the definition does not include a vessel that is subject to Coast Guard inspection and
    - is engaged in commercial use; or
    - carries paying passengers

4

1 The Act itself made a number of changes to the  
 2 Clean Water Act. The first was the Section 402  
 3 which basically says that recreational boats do  
 4 not need permits for their incidental discharges.  
 5 By necessity it added a definition of what a  
 6 recreational vessel is. (Unintelligible.)

## How Congress Changed the CWA (cont.)

- New CWA § 312(o):
  - Three phases of regulations:
    - EPA to:
      1. Determine (by regulation) discharges for which it is reasonable and practicable to require management practices (MPs) and develop MPs
      2. Issue regulation establishing performance standards for MPs
    - USCG to:
      3. Issue regulations governing design, construction, installation, and use of MPs

5

1 And then the biggest part that we'll be talking  
 2 about tonight is parts that were added to Section  
 3 312, 312(0) specifically. What this edition to  
 4 the Clean Water Act requires EPA and the Coast  
 5 Guard to do is to go through a three-part or a  
 6 three-phase rulemaking process.

7 The first part would be to determine  
 8 discharges from recreational vessels that require  
 9 some type of management practice and for EPA to  
 10 develop management practices for those  
 11 discharges. The second phase is to establish  
 12 performance measures. That's to let the

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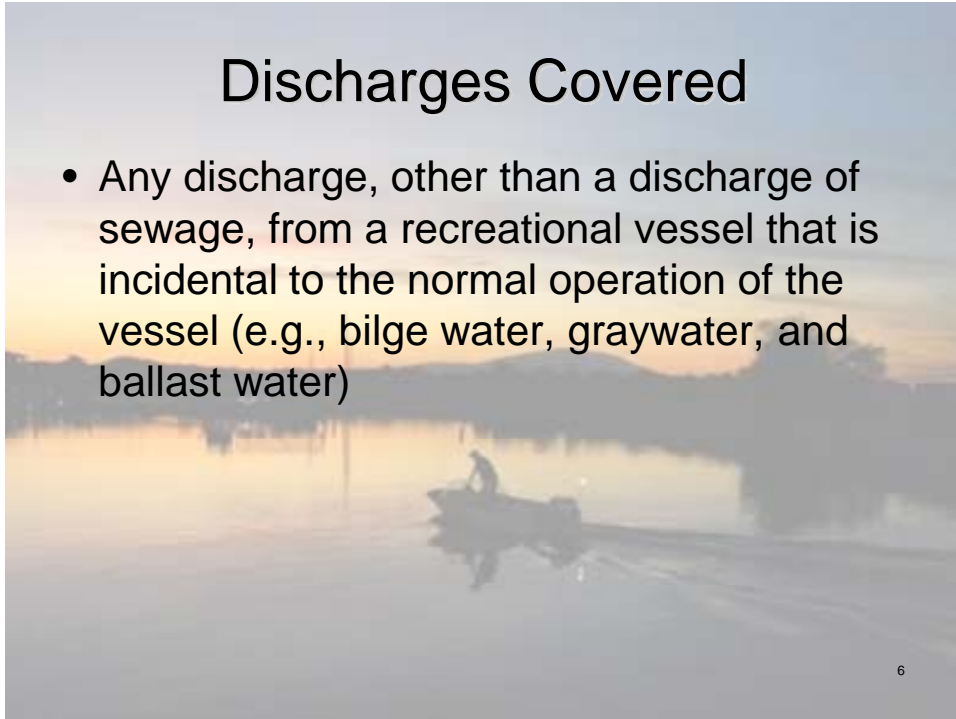
1 recreational boat owner know they're actually  
2 complying with the management practice. And then  
3 the third phase will be Coast Guard instructions.

4           And I'd just like to add that as we're  
5 going through this rulemaking process, we are  
6 working with representatives of the Coast Guard.

7

## Discharges Covered

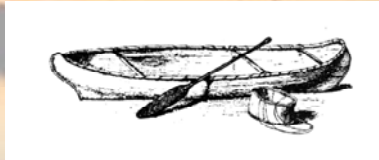
- Any discharge, other than a discharge of sewage, from a recreational vessel that is incidental to the normal operation of the vessel (e.g., bilge water, graywater, and ballast water)



1 The statute is very broad in its scope. It  
2 requires EPA to look at and assess every  
3 potential discharge from a recreational vessel.  
4 The only thing that really is not on the table  
5 here is sewage. Sewage is covered by a different  
6 part of the Clean Water Act, so we do not address  
7 sewage.

## Vessels Covered

- Approximately 17 million recreational vessels
  - 13 million state-registered
  - 4 million non-registered



1 We'll go into some potential examples of this  
2 later, but just so that you understand the scope  
3 of the regulation and what type of vessels --  
4 well, it's any vessel used for recreation. There  
5 is no size constraint, from the smallest personal  
6 watercraft to the largest luxury yacht,  
7 everything would fall under this.

8           There are approximately 17 million  
9 vessels in the U.S. that will fall under the  
10 authority of the Clean Boating Act.

## Enforcement

- After effective date of USCG rule, discharges into waters of US or contiguous zone must meet performance standards
- Enforcement of regulations by USCG and states via existing CWA §§ 312(j) & (k)

8

1 As specified by the statute, the primary  
2 enforcement agent for any rules that come out of  
3 this will be the U.S. Coast Guard. And, as  
4 you're all familiar, Coast Guard currently  
5 regulates recreational vessels for a number of  
6 different issues.

7 Because this is part of 312, there is  
8 existing authority for states to regulate any of  
9 the regulations that EPA puts forward. States  
10 may do so at their discretion.

11 One other thing I would like to add that  
12 there is no preemption of state regulations by

1 EPA's regulations. If a state has a more  
2 protective measure than something EPA has put out  
3 in a rulemaking while in that state, the more  
4 protective state measure under state law would  
5 have primacy.

## Approach for Management Practice Development

- Arrange management practices by discharge types for clarity and ease of use by recreational boaters
- Focus on discharge characteristics using existing information
- Carefully consider input from stakeholder groups
- Phase 1: Narrative, easy-to-understand descriptions of management practices
- Phase 2: Objective, easily measured standards

9

1 The -- we're trying to approach this rulemaking  
2 differently than we would typically for like an  
3 industrial rulemaking process. We're trying to  
4 make this rule in a manner that would be very  
5 easy for boaters to implement and hopefully for  
6 most of you it really will not result in any  
7 significant change from your current boat-keeping  
8 practices.

9 UNIDENTIFIED MALE: Excuse me, Brian.

10 You need to advance the slide.

11 MR. RAPPOLI: Oh, I'm sorry.

12 UNIDENTIFIED MALE: There you go. Sorry.

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1 MR. RAPPOLI: Apologize.

2 When we're moving forward through this  
3 obviously we're using a lot of technical  
4 information that the agency has collected over  
5 the years, everything from large vessels to small  
6 boats, using state and other -- state reports,  
7 studies done by other federal agencies, studies  
8 done by academicians published in the open  
9 literature. So it will be a very science-based  
10 rule, which is SOP for the agency.

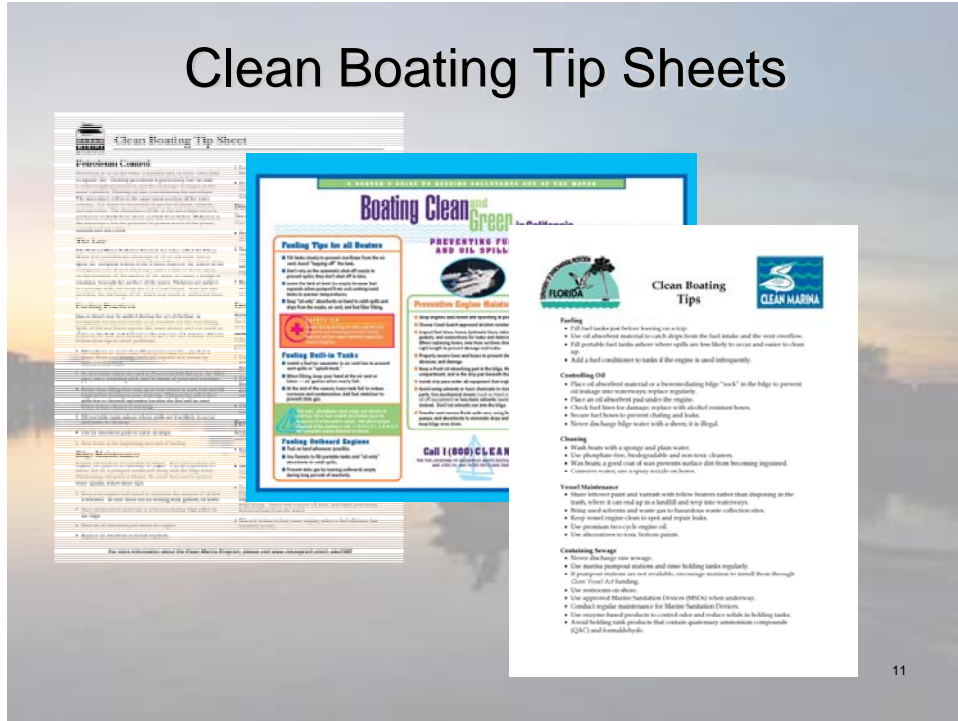
11 And the other thing that we want to do is  
12 actually get input from boaters in terms of  
13 practices that you may be using that you feel  
14 that we may not be aware of that you think would  
15 be good to be considered on a national scale. As  
16 I mentioned earlier, you know, the Phase 1  
17 rulemaking will result in, you know, narrative,  
18 easy-to-understand management practices. And  
19 then Phase 2 where we have the performance  
20 measures again will be simple, objective things  
21 that you can do by visual observation. No one's  
22 going to have to run out and buy a test kit,

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1 I keep using the term management practice, and a  
2 lot of people want to know what exactly do we  
3 mean by management practices. Well, really, just  
4 as the word says, it's a boat-keeping practice.  
5 As I mentioned before I started, we're not really  
6 focusing on equipment or materials that you'd  
7 have to retrofit your boat with.

# Clean Boating Tip Sheets



1 To give you some idea of what these practices are  
 2 like, really all you have to do is refer to the  
 3 many, many state clean boating guides. These are  
 4 a few examples from Florida, Michigan,  
 5 California. Maryland has a great green boating  
 6 and clean marina program. And if you're  
 7 basically complying with these, you're probably,  
 8 you know, like most of your peers not going to  
 9 see any significant change to what's happening to  
 10 you because we are, wherever appropriate,  
 11 planning to adopt or build on these long-  
 12 established and proven practices that states have

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1 developed.

2 UNIDENTIFIED SPEAKER: (Inaudible.)

3 MR. RAPPOLI: Sorry.

## Discharge Types Under Consideration

- Oily bilgewater and other sources of oily waste
- Engine maintenance and fueling practices
- Cleaning and other maintenance practices
- Antifouling and corrosion control systems
- Graywater and similar discharges

12

1 The -- to try to give you an idea of what types  
2 of things we're considering -- and I want to  
3 stress that we have not made any determination.  
4 This is just for informational purposes. You  
5 know, these are the type of things that we're  
6 talking about. Some of them are specifically  
7 mentioned in the statute. Some are obvious  
8 extensions of that.

9 Things like bilge water. You know, what  
10 kind of practices can you do to keep your bilge  
11 clean? Engine maintenance, many, many states

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1 recommend when possible conduct engine  
2 maintenance when your vessel is out of the water.  
3 And if you can't do it out of the water, there  
4 are practices that you can implement to minimize  
5 debris or oily substances from getting into your  
6 bilge or getting into the water directly.

7           You know, cleaning practices. Can you  
8 clean your boat? If you need to do a very heavy  
9 cleaning, can it be done while on shore? If you  
10 need to do it in the water, can you use  
11 environmentally friendly cleaners? I was having  
12 a discussion with a gentleman earlier this  
13 evening about just that issue.

14           Things like anti-fouling compounds,  
15 extremely useful thing for most boater [sic]  
16 particularly if you work in a -- boat in a  
17 seawater environment and, you know, doubly  
18 beneficial in that it helps prevent the spread of  
19 aquatic nuisance species. But oftentimes the  
20 question is are you using the correct anti-  
21 fouling agent for the environment that you boat  
22 in, and are you maintaining it properly.

1           Corrosion control, you know, do you  
2   zincs, and do you recycle them when you're done  
3   with them? Could you use a corrosion control  
4   coating in lieu of a sacrificial anode. These  
5   are the type of things that states currently  
6   recommend boaters to do. Gray water, you know,  
7   the most common sense management practice there,  
8   simply minimize the amount of gray water you  
9   generate.

## Aquatic Nuisance Species (ANS)

- A point of interest for many stakeholders is to stop the spread of invasive organisms, such as the Quagga Mussel and Hydrilla
- Potential areas for ANS management practices
  - Hull fouling
  - Ballast water
  - Trailer cleaning

13

1 I want to take a few minutes to speak  
 2 specifically about aquatic nuisance species  
 3 because this is the issue that was the genesis of  
 4 the Clean Boating Act. When I talk to people  
 5 about aquatic nuisance species, they always think  
 6 of transoceanic vessels, large commercial ships,  
 7 big hull surface area, big ballast tanks  
 8 responsible for bringing aquatic nuisance species  
 9 to the United States. And that is referred to as  
 10 primary transport.

11 Obviously no one's pointing to a  
 12 recreational vessel as a vector for primary

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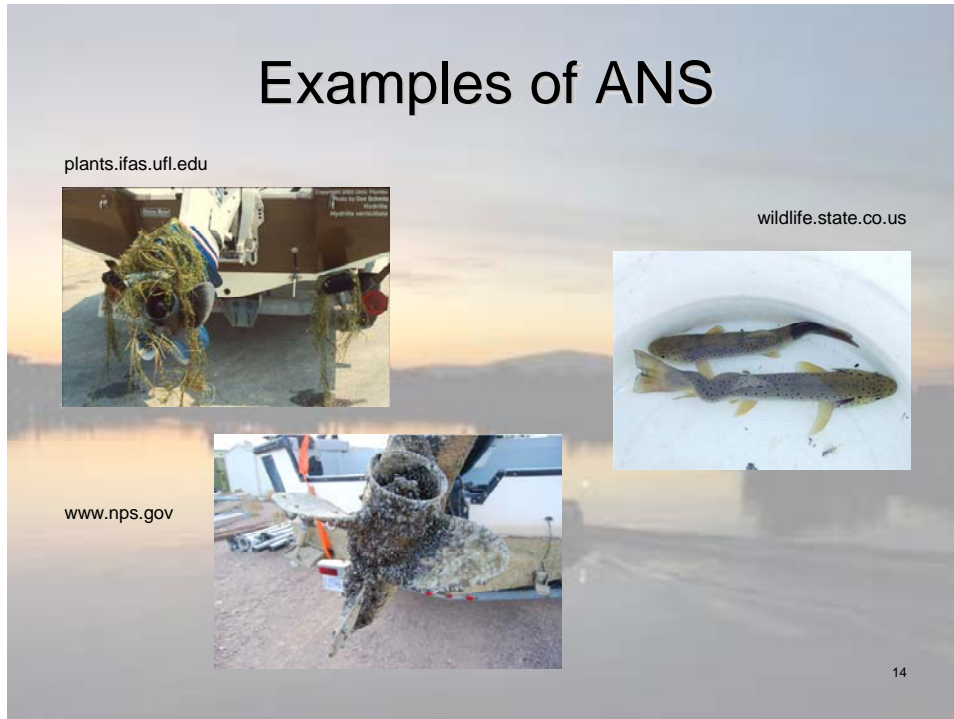
1 transport. The issue is what is referred to as  
2 secondary transport. That's where a water body  
3 has been invaded, for example, by zebra mussels  
4 in the Great Lakes. And now any vessel that  
5 operates in that infected water body now becomes  
6 a vector for transport to another water body that  
7 is not hydrologically connected.

8           The -- you know, zebra mussels and Quagga  
9 mussels are probably the poster child for aquatic  
10 nuisance species. Thirty-two of the 50 United  
11 States have invasions of these organism. And  
12 it's an extremely difficult issue to tackle  
13 because aquatic nuisance species run from  
14 animals, you know mussels, to plants to microbes.

15 You know, particular damaging ones are things  
16 like viral hemorrhagic septicemia, which is an  
17 issue in the Great Lakes. And the whirling  
18 disease which infects trout and salmoid species,  
19 and that's a problem in 22 of the United States.

20           I'm assuming many of you here are  
21 residents of Maryland or Virginia. And we have a  
22 new invasive plant that just came to the area

1 recently. It's didymo, and it goes by the less  
2 glamorous name of rock snot. And it's not a  
3 pretty plant that you want growing in a lake or a  
4 stream area.



1 You know, besides causing huge economic impacts  
 2 on society, aquatic nuisance species are a  
 3 problem for boater. And this is an issue that's  
 4 trying to be addressed at the federal, state  
 5 level. We have non-profit organizations involved  
 6 in it. Universities are involved in it. I have  
 7 a couple of photographs here, courtesy of --  
 8 starting on the top left -- University of  
 9 Florida, a prop that's fouled with Hydrilla.  
 10 Then from the National Park Service below that  
 11 you see an encrustation of a prop in the rear  
 12 vessel with Quagga mussels. And in the top

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1 right, if you can make it out, the -- those are  
2 fish that have been infected by the whirling  
3 disease parasite. It cause a deformity in the  
4 fish. You know, these are the type of things  
5 that have direct impact on all water enthusiasts.

## Stakeholder Involvement

- EPA is holding listening sessions and conducting webinars to inform interested parties about the CBA and receive public input
  - Specific discharges or broad categories of discharges for which EPA should consider developing management practices
  - Innovative management practices that EPA should consider incorporating into the regulations
  - Lessons learned from non-regulatory programs
  - Published studies regarding vessel discharges

15

1 And as we were mentioning earlier, this is an  
 2 opportunity for you as interested stakeholders to  
 3 have an opportunity to provide input to EPA. You  
 4 know, I have a few items here listed on this view  
 5 graph, but by no means does this limit the scope  
 6 of what we're looking for. If you have any  
 7 information that you think would be valuable to  
 8 us as we move forward with this rulemaking  
 9 process, we'd greatly appreciate hearing from  
 10 you.

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## Anticipated Phase 1 Schedule

- Publish Notice of Proposed Rulemaking
  - Summer, 2012
- Final Phase 1 Rule
  - Summer, 2013

16

1 Now we haven't provided you a lot of specifics  
2 about what we are going to do because we have not  
3 made those decisions yet. That will not happen  
4 until we go to our Notice of Proposed Rulemaking.  
5 And that'll probably happen next year. And  
6 that's dependent upon the amount and the type of  
7 input that we receive from stakeholders during  
8 this outreach process. So it's a soft date. If  
9 it's extensive data that requires a lot of very  
10 careful determination, that date might be moved  
11 back. If it's not of that nature, we might be  
12 able to hold true to putting our proposed rule

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1 out next summer. And that's where we'll give you  
2 specificity of exactly what type of discharges we  
3 believe need management practices and the nature  
4 of those management practices.

5           When we go to that proposal phase, you,  
6 as stakeholders and the entire U.S. public, have  
7 an opportunity again to provide EPA input in  
8 terms of what we've developed. So this isn't  
9 really like your last chance at the brass --  
10 brass ring. It's just a chance for you to have  
11 early input into the process.

12           Then to actually go from a Propose to  
13 Final Rule, that typically takes about a year.  
14 So Phase 1 will not be complete until about 2013.  
15 And as I mentioned, this is a three-phase  
16 rulemaking process. There will be a second EPA  
17 rule and then there'll be a Coast Guard rule.  
18 It's not until that third Coast Guard rule goes  
19 final until there are any binding requirements on  
20 the boating public. So, nothing -- nothing --  
21 the rubber does not hit the road until Phase 3 is  
22 complete.

# Stakeholder Input

By Web: <http://www.regulations.gov>

Enter EPA-HQ-OW-2011-0119 into the search field to find the appropriate docket folder, then follow the on-line instructions for submitting comments.

By E-mail: [ow-docket@epa.gov](mailto:ow-docket@epa.gov)

Use "Attention Docket ID No. EPA-HQ-OW-2011-0119" in the subject line.

Address letters to:

Water Docket, Environmental Protection Agency

Mail Code 2822-1T

1200 Pennsylvania Ave., NW.

Washington, DC 20460

Attention Docket ID No. EPA-HQ-OW-2011-0119.

17

1 Besides providing oral input to us today, there's  
 2 a variety of different mechanism that you can use  
 3 to provide us information. You can do it through  
 4 the web at [regulations.gov](http://www.regulations.gov). And notice this EPA  
 5 HQ OW 2011-0119. That number has to be in there  
 6 when you're trying to provide comments on it.  
 7 You can send it to the OW Docket. Again, make  
 8 sure you use that identifying number for any e-  
 9 mails you send us. And if you prefer, you can  
 10 send it by the Postal Service. Any mechanism  
 11 works fine for us.

12 Before I end my presentation, I hope

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1 everyone got an agenda. On the back page -- back  
2 side of the agenda this information is reproduced  
3 there. In addition, there's a couple of websites  
4 listed at the bottom. The first one is for the  
5 Clean Boating Act website if you're not already  
6 familiar with it. The second one is -- I put it  
7 there specifically because we oftentimes get  
8 questions about the whole E-15 issue. That is  
9 not an Office of Water Rule. That's an Office of  
10 Air Rule, but that website can give you all the  
11 information about E-15 that's currently  
12 available.

13           And oftentimes we get inquiries from  
14 boaters. They're very interested in cleaning  
15 products. What is -- what is safe to do? I want  
16 to use a safe product, but I can't tell if a  
17 product that I'm using is safe. EPA has a  
18 voluntary labeling program. It's called Design  
19 for the Environment. And they have all types of  
20 products there. Some specifically are marine  
21 products. And if you're at all interested in  
22 learning more and about those products that have

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1 been demonstrated to be friendly to the  
2 environment, the website will get you to that  
3 information.

4 That concludes my brief summary.  
5 Anything we need to cover? No? Okay. And I'm  
6 going to hand the mike back over to Doug.

7 MR. THOMPSON: Thank you, Brian. I  
8 appreciate that -- that overview. And as  
9 mentioned earlier, first, just wanted to open it  
10 up for anyone who might have factual or  
11 clarifying questions about what you've just heard  
12 or something related to what you just heard. And  
13 then we'll move to those who indicated they would  
14 like to -- like to speak.

15 So any -- any questions? Yeah, and if I  
16 could trouble you to just come to a mike and  
17 state your name. We are audio recording the  
18 session so we can make sure we get an accurate  
19 record here.

20 MR. CANASTRARO: My name is Nicholas  
21 Canastraro. I live in Annapolis. And my first  
22 question is -- actually, my only question is what

1 documentation does the EPA have to assign  
2 environmental difficulties to recreational  
3 boating in Chesapeake Bay? I'd like to know  
4 that.

5           And I would -- and the second question is  
6 I would like to know what the environmental  
7 impact in Chesapeake Bay is of the Conowingo Dam.

8           MR. THOMPSON: Okay. Two maybe somewhat  
9 broad breadth questions but any initial --  
10 anything initially you want to say by way of  
11 trying to address either issue?

12           MR. RAPPOLI: Well, the -- we've got --  
13 received some inquiries about the dam and first  
14 of all, EPA does not have regulatory authority  
15 over the dam.

16           UNIDENTIFIED FEMALE: Excuse me. I still  
17 can't hear you.

18           MR. RAPPOLI: How about now? Can you  
19 hear me?

20           UNIDENTIFIED FEMALE: Better.

21           UNIDENTIFIED MALE: (Inaudible) the  
22 microphone.

1           MR. RAPPOLI:  The -- we don't have  
2 jurisdiction over the dam.  EPA does not have any  
3 regulatory authority there.

4           UNIDENTIFIED FEMALE:  Why not?

5           UNIDENTIFIED MALE:  Who does?

6           MR. RAPPOLI:  Congress that hasn't given  
7 it to us.

8           John, what is the --

9           MR. LISHMAN:  FERC.

10          MR. RAPPOLI:  FERC which --

11          MR. LISHMAN:  Federal --

12          MR. RAPPOLI:  Go ahead.

13          MR. LISHMAN:  Hydro dams in the United  
14 States -- at least private dams like the  
15 Conowingo Dam -- are regulated by the Federal  
16 Energy Regulatory Commission.  EPA does not have  
17 statutory authority from Congress to regulate  
18 discharges from dams like that.

19          UNIDENTIFIED FEMALE:  Why not?  It's  
20 wrecking our bay.

21          MR. LISHMAN:  I can't tell you why  
22 Congress didn't give it to us 'cause --

1 UNIDENTIFIED FEMALE: Well then you  
2 better ask for it. (Inaudible) and none of them  
3 have been (inaudible).

4 MR. THOMPSON: And I think we heard in  
5 the meeting back in March as well some concern  
6 about the dam, so --

7 UNIDENTIFIED FEMALE: Well, I've got to  
8 tell you *Chesapeake Bay Magazine* just wrote two  
9 articles about it, and it (unintelligible)  
10 really, really frightening.

11 MR. THOMPSON: Thank you. Clearly it's a  
12 concern, and I think we can say EPA has heard it.  
13 Obviously they're limited by what authorities  
14 they have, but they are hearing that concern and  
15 hopefully can carry it back to -- to those who  
16 might be able to do something about it.

17 UNIDENTIFIED FEMALE: (Unintelligible)  
18 come down on us little boaters (unintelligible)  
19 great big electric (unintelligible).

20 MR. THOMPSON: Let me ask if there are  
21 other clarifying questions, factual questions?  
22 Yeah, ma'am.

1 MS. LUNSFORD: Yeah, my name is Jaye  
2 Lunsford. This is, I hope, just a --

3 MR. THOMPSON: A little closer to the  
4 mike if you would.

5 MS. LUNSFORD: Oh, okay. Is this better?

6 MR. THOMPSON: Yeah.

7 MS. LUNSFORD: Okay. My question is  
8 about your very brief statement about gray water  
9 that you said one of the things to do is, like,  
10 minimize the gray water that you create. And if  
11 I'm, for example, washing dishes -- and I know  
12 you're not going to -- we're not talking about  
13 holding tanks for gray water, but if I'm washing  
14 dishes and I use -- I don't know -- 2 tablespoons  
15 of environmentally friendly dishwashing liquid,  
16 does it matter from the point of view of the load  
17 whether I dilute that with half a gallon of water  
18 or 10 gallons of water? I mean, there my --  
19 there are other reasons to minimize the use of  
20 fresh water, but in terms of this regulation, in  
21 terms of the load to the Bay, is that a  
22 management practice that makes sense because the

1 load is going to be the same.

2 MR. RAPPOLI: That's a very good  
3 question. When states make that -- many states  
4 have this in their -- in their clean boating  
5 guidance and what they're asking boaters to do  
6 when possible is to defer actions that generate  
7 gray water aboard their vessel. For example,  
8 let's say you're fortunate enough to have a  
9 vessel large enough to accommodate a washing  
10 machine and you're at dock. The question is can  
11 you do it at a land-based Laundromat versus on  
12 your vessel where that detergent is being  
13 directly discharged.

14 And as you probably know, sometimes those  
15 detergents were not designed for direct  
16 discharges into natural water systems. They're  
17 really predicated upon being treated at a  
18 municipal treatment plant. So that's the type of  
19 minimization. Is there a gray-water generation  
20 activity that when you're in port you can defer  
21 to doing it on, you know, shore based as opposed  
22 to boat based. That's what -- that's what states

1 ask.

2 MR. THOMPSON: Any other questions at  
3 this -- yes, sir?

4 UNIDENTIFIED MALE: Who is going to  
5 regulate --

6 MR. THOMPSON: I'm sorry. Could I  
7 trouble you to --

8 UNIDENTIFIED MALE: I don't need it.

9 UNIDENTIFIED SPEAKER: We need it for  
10 audio.

11 MR. THOMPSON: The others might, like,  
12 need it so -- here, you can use --

13 UNIDENTIFIED MALE: One question that  
14 bothers me: Who is going to regulate these  
15 proposals that you're proposing to enact for --  
16 throughout all the boaters in the United States?  
17 Who's going to -- who are going to be the  
18 policemen that's going to look for this problem  
19 if there is any?

20 MR. RAPPOLI: The Coast Guard is the  
21 primary enforcement agent.

22 UNIDENTIFIED MALE: I don't believe



1 there's enough personnel in the Coast Guard to  
2 regulate the recreational boater.

3 MR. RAPPOLI: Pointed out to me that the  
4 first gentleman who asked the question -- there  
5 were two questions, and we didn't address the  
6 first of the two. And it was about specifics  
7 data that EPA has about impacts from recreational  
8 boaters in -- in the Bay.

9 We have not done a specific study on  
10 Chesapeake Bay, so I can't answer your question.

11 MR. CONASTRARO: Well, why are we  
12 embarking on this if you don't have any data to  
13 prove that it's a problem?

14 MR. RAPPOLI: When we make a decision to  
15 do something --

16 MR. CONASTRARO: You'll let us know?

17 MR. RAPPOLI: -- we will provide you  
18 technical data --

19 UNIDENTIFIED FEMALE: You will let us  
20 know?

21 MR. RAPPOLI: Yes

22 UNIDENTIFIED FEMALE: What right do you

1 have (inaudible)?

2 MR. RAPPOLI: That's Congress' direction,  
3 ma'am.

4 UNIDENTIFIED FEMALE: No, it's not  
5 Congress' direction. It's the President's  
6 direction.

7 MR. THOMPSON: So let's -- let's try to  
8 go one at a time here if we can. Are there other  
9 -- yes, sir?

10 MR. ZEYHER: My name is Dr. David Zeyher.  
11 I've lived in Annapolis for 48 years, and I've  
12 lived on Church Creek for 40 years. When I first  
13 built my home on Church Creek, I was able to go  
14 out and catch all kinds of fish, bluegills, white  
15 fish, and various and sundry other -- pickerel.  
16 Are you familiar with pickerel?

17 Church Creek is off of South River.  
18 South River, at the time, was considered, I  
19 think, fairly clear in 1970, and you could go out  
20 there and catch fish pretty much any time. We  
21 used to go out in the evening and catch some fish  
22 in Church Creek. And in an hour I could have

1 enough to feed my family, mostly bluegills, but  
2 there were white perch and a few yellow perch,  
3 but I think more significantly were the pickerel,  
4 which I don't think anybody has caught a pickerel  
5 in any of the waters here in Maryland for quite a  
6 few years.

7           Well, Church Creek was one of the main  
8 drainage sources for Parole back in the '60's and  
9 '70's. And it did silt in, but we were still  
10 able to catch a few fish for a couple of years.  
11 Now all of a sudden all the sunfish died. The  
12 white perch disappeared. There were no yellow  
13 perch.

14           And my question is -- is why. Well, we  
15 seem to blame it on Parole, but this is when  
16 Parole was a very small shopping center en route  
17 to was a very two-lane highway. I won't say  
18 infrequently used but not used as the way it is.  
19 So my point in mentioning that is is it has to be  
20 people pollution, automobile pollution, water  
21 drain-off from the blacktop and the highways and  
22 all the construction that goes on.

1           Well, then they came out and the state  
2 spent a lot of money dredging Church Creek  
3 because of the sedimentation. The fish still  
4 haven't come back. I still can't catch any fish,  
5 and this is 40 years later. However, there's not  
6 a year that goes by that I don't get an  
7 announcement in my mailbox saying, "Please don't  
8 swim in Church Creek for another week because  
9 we've had a spill -- a sewage spill. There's  
10 been an overflow from sewage." So who do you  
11 blame for that? That's another problem.

12           However, I might add that the number of  
13 boats on Church Creek has stayed about the same.  
14 There mostly the lots and the houses that were  
15 built were built probably 40, 50, 60 years ago on  
16 Church Creek. It's still a very pristine,  
17 beautiful creek.

18           And I'm using this as an example because  
19 I think it sets a premise for many of the creeks  
20 on South River, and the Severn River, and the  
21 Magothy River. I think this is a very typical  
22 problem that we've had.

1           So, my question is: What happened to my  
2 fish? You can't blame it on the gray water from  
3 all the boats in Church Creek. So my next  
4 premise is what makes you say that all of a  
5 sudden we have to have all these controls --

6           MR. THOMPSON: Try to pull that -- wrap  
7 up.

8           MR. ZEYHER: I'm sorry.

9           MR. THOMPSON: If you could try to wrap  
10 that up for the moment? We're --

11          MR. ZEYHER: I'll wrap it up as soon as I  
12 can, but I came here to have my say.

13          MR. THOMPSON: But I did --

14          MR. ZEYHER: And I will -- I will -- I  
15 will relinquish --

16          MR. THOMPSON: Then we'll let you back up  
17 as well, so --

18          MR. ZEYHER: So my point is I'm wondering  
19 if maybe you gentlemen might not -- and all your  
20 facilities and so on, so forth, and -- might not  
21 be barking up the wrong tree.

22          My question is: I don't understand how

1 gray water and -- and now all the detergents you  
2 mentioned about the automatic washers on board  
3 some of the larger boats. I don't believe there  
4 are many detergents made today that have the  
5 phosphates in them. That's been -- was  
6 controlled years ago.

7           And -- but I think a lot of the problems  
8 with the Bay don't stem from the discharges from  
9 the boats, especially the pleasure boats. Just  
10 take a look at some of the marinas that we have  
11 today. Even during the summertime I bet you  
12 there's not a marina that doesn't have 80 percent  
13 of its occupant boats right there. They're not  
14 out in the Bay anyplace. They're not roaming  
15 around and spreading this -- quote -- illegal  
16 discharges and so on.

17           So I really believe that maybe you ought  
18 to attack this from a different approach and find  
19 out what the real source of the problem is for  
20 the Bay. And I don't think it's the pleasure  
21 boaters. And I'm using as an example what I --

22           MR. THOMPSON: Okay.

1           MR. ZEYHER:  -- I just stated about  
2 Church Creek.  And this can go on and on for most  
3 of the creeks.

4           How about the farm runoff from all the  
5 fertilizers and so on and so forth?

6           MR. THOMPSON:  So -- so let me just --

7           MR. ZEYHER:  Okay.  I've pretty much had  
8 my say, and I think maybe that -- maybe the  
9 federal agencies and the state agencies are  
10 looking maybe in the wrong place.

11          MR. THOMPSON:  Thank you.  And one theme  
12 -- and we've already heard --

13                    (Appause.)

14          MR. THOMPSON:  -- this evening is that  
15 there's some sense that there are other problems  
16 that are much greater that are -- are the sorts  
17 of things that need the focus of the agencies  
18 perhaps rather than the recreational boating.  So  
19 I think that's a theme we're picking up already.

20           If there's any initial reaction, then I  
21 want -- I'd like to move to getting people's  
22 comments.

1           MR. COUGH:  Yes, I have initial reaction.  
2  I sympathize with your statement.  And it wasn't  
3  too long for me.  Thank you very much.

4           We're -- we're working on a certain part  
5  of the problem, which is a national part of --  
6  recreational boating.  We happen to be holding  
7  the meeting here in Chesapeake Bay.  And we  
8  recognize there are many other issues in  
9  Chesapeake Bay.  That's why EPA, other agencies  
10 and states have all banded together and are  
11 working on a very large Chesapeake Bay program  
12 that talks about pollution sources going all the  
13 way up to New York State.  And we have been  
14 mapping out those pollution sources by very -- by  
15 parts of counties -- from agriculture, from storm  
16 water, from municipal sewage sources -- all of  
17 those sources.  Lots of analysis is going into  
18 that.  So that analysis is going on.  That's a  
19 separate exercise with a lot more resources  
20 behind it than what we're talking about here.

21           What we're doing is holding a meeting  
22 here in Chesapeake Bay or on Chesapeake Bay about



1 one issue, which is recreational boating, which  
2 is expressed across the whole country. If this  
3 meeting were being held in -- on Lake Tahoe, we'd  
4 have a whole different situation. There they'd  
5 be talking about invasive species. That would be  
6 a really big issue there and other places. It  
7 happens that the recreational boating is a piece,  
8 but only a small piece, of the bigger picture  
9 here in Chesapeake Bay.

10           And then there -- but there's that  
11 specific piece which is our responsibility so  
12 we're trying to do a good job of what is our  
13 responsibility, but we recognize that in any  
14 particular location that's part of a much bigger  
15 puzzle.

16           Maybe the particulars, Brian, you might  
17 want to answer here though.

18           (Inaudible.)

19           MR. COUGH: I guess that's enough for  
20 now. Thanks

21           MR. THOMPSON: All right. Did I -- yes.  
22 Take one more question. Then we'll move to

1 comments.

2 MR. YORK: It's more of a -- more of a  
3 comment.

4 My name is Steve York. I'm an executive  
5 with the U.S. Government, and I'm working on our  
6 own implementation of an act. And so the one  
7 that I'm working on is FISMA. It is the Federal  
8 Information Security Management Act. It was a  
9 good idea but poorly implemented. And so one of  
10 my jobs is to work with Department of Homeland  
11 Security, Department of State, Department of  
12 Justice, people who have similar IT problems, and  
13 we are changing the Act.

14 And so I would ask that you keep that  
15 open for consideration as you enforce and just  
16 accept what has been handed to you as a  
17 directive. It is alterable. The folks that are  
18 in this room here -- and I can speak for myself  
19 and a couple of others that I know -- are  
20 responsible boaters, have been responsible  
21 boaters, and will continue to be responsible  
22 boaters. There are a lot more registered boat

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1 owners or registered owners of boats in the  
2 Chesapeake Bay area than you'd find in this room.  
3 I engage and come across hundreds per season and  
4 have been doing so for a number of years.

5 I agree with the woman in the back  
6 saying, "We are not the biggest problem." I  
7 don't see discharges overboard. Every boat that  
8 I've been on has had the appropriate placard  
9 identifying what should not -- you know what the  
10 mile ranges are for discharge of plastics, and  
11 trash, and things of that nature. Every boat  
12 that I've been on I have seen that the macerator  
13 is sealed shut. People are doing the right  
14 things voluntarily. They don't need this level  
15 of oversight. The Coast Guard is not manned to  
16 enforce this, and I don't know how they would do  
17 it anyways.

18 The way to get through to people is  
19 through training. Every boat owner should go  
20 through training. We're exposed to far too many  
21 drunken idiots who have money enough to buy a  
22 boat but not a clue of what it means to be a boat

1 owner. And I think you'll get a lot farther that  
2 way. Thank you.

3 MR. THOMPSON: Thanks.

4 (Applause.)

5 MR. THOMPSON: We've kind of naturally  
6 progressed into comments, which is great. That's  
7 just where we want to be. So what I'd like to do  
8 is for those of you who did indicate when you  
9 signed up that you'd like to say something, I'll  
10 call you, hopefully, more or less in the order in  
11 which you came in this evening. And again, in  
12 terms of putting a kind of informal time limit on  
13 the comments, we're not trying to squelch anybody  
14 -- far from it. We just want to make sure  
15 everyone has an opportunity to speak. And then  
16 we'll let others -- we'll let people get back up  
17 again to the extent that time allows.

18 So, the first one I have down here is --  
19 I hope I have the name right -- Paul Appel?

20 Yeah, okay. If you would.

21 MR. APPEL: Good evening. It's Paul  
22 Appel.

1 MR. THOMPSON: Oh, sorry. Paul Appel.

2 MR. APPEL: That's okay. I've been apple  
3 my whole life.

4 I would like to ask you the science that  
5 you're using for some of your proposed  
6 regulations, specifically in this case, anti-  
7 fouling. Will the public have an opportunity to  
8 review those studies independently? In other  
9 words, will you have those published on the web  
10 where we can actually get a look at it?

11 MR. RAPPOLI: When EPA goes to its  
12 proposed rule, we'll publish a document that's  
13 called our Technical Support Document. And that  
14 will provide the rationale and all the studies  
15 that we cited in that decision making.

16 MR. APPEL: And that -- you say that  
17 comes out with the proposal, which would be the  
18 summer of 2012?

19 MR. RAPPOLI: Yes.

20 MR. APPEL: Okay. Thank you very much.

21 MR. THOMPSON: Thank you. Next I had  
22 Earl from the National Boating Federation. And

1 was the last name -- we're not quite sure whether  
2 it's a W or an N. Waesche, Naesche? Anywhere  
3 close?

4 MR. WAESHE: Waesche is correct.

5 MR. THOMPSON: Waesche, okay.

6 MR. WAESHE: Earl Waesche, National  
7 Boating Federation. And I was at the first  
8 session, and I just wanted to emphasize because  
9 I've heard a lot of similar comments here tonight  
10 that what the boating community is already doing,  
11 and we have the -- and you heard and I elaborated  
12 at the last session on the -- some of the things  
13 and many of the things that the boaters in our  
14 area are doing already. And a lot of these are  
15 elaborated here in the Maryland Department of  
16 Natural Resources pamphlet, the things -- clean  
17 boating tips. And these are followed. I can't  
18 say that everyone everywhere is following every  
19 step, but a lot of people are aware of this and  
20 are following them. And we're trying to get more  
21 people to follow them. So, trust me, we want to  
22 do our part. And I think many of us are doing

1 our part.

2           In Maryland we also have the Clean Marina  
3 Program which my home club, Corinthian Yacht Club  
4 down in St. Mary's County is one of the early  
5 people to be qualified in the Clean Marina  
6 Program, and we had to meet all the requirements  
7 and to be certified as a clean marina. Now  
8 that's not necessarily gray water from boats, but  
9 I mean there are things that we can do at the  
10 marina to eliminate or prevent -- and foulant --  
11 any kind of foulant to get in our waterways.

12           But tonight I did want to make a comment  
13 on one area that is of concern with -- when you  
14 consider right now the economy, which is  
15 certainly not recovered fully yet, the increasing  
16 -- rapidly increasing fuel prices and the  
17 probable cost of installing best -- any --  
18 whatever these best management practices come  
19 about as being whatever kind of regulations, new  
20 boats manufacturers can build them in, but older  
21 boats, to retrofit a boat with some kind of a  
22 tank, or a filter, or something may be next to

1 impossible.

2           But I'm hoping with all of these things -  
3 - and which have an economic influence -- and  
4 then the fact that the EPA has just approved E-15  
5 into commerce, which we have testified and  
6 written statement on, will cause problems in our  
7 engines and our fuel systems, and which will  
8 cause even greater financial hardships.

9           So I'm just -- with all these things that  
10 I've just mentioned that sound kind of gloom and  
11 doom but are nonetheless true, that you consider  
12 the economics of this when you come up with your  
13 best management practices and the regulations as  
14 to their cost and the impact that cost will have  
15 on the boating community. Thank you.

16           MR. THOMPSON: Thank you. Al -- it looks  
17 like Al Simon. Is that correct?

18           MR. SIMON: I think everything has been  
19 said that I was going to say, so --

20           MR. THOMPSON: Okay.

21           MR. SIMON: -- (inaudible). My only  
22 question that I had, who's going to --



1 MR. THOMPSON: Thank you.

2 MR. SIMON: Who's going to enforce all  
3 these -- who's going to enforce all these  
4 proposals that are coming about? Are enough  
5 marine police, Coast Guard -- they have bigger  
6 things to do than the minimal amount of pollution  
7 or the effect that this gray water is having on  
8 the Bay.

9 MR. THOMPSON: Thank you. So I think one  
10 thing we're hearing is at least some skepticism  
11 that the -- that the Coast Guard is sufficiently  
12 equipped to perhaps enforce whatever comes out in  
13 the regulation. I don't know if there's any  
14 reaction or we may want to make note of that for  
15 the moment.

16 MR. RAPPOLI: This is a universe of  
17 vessels that the Coast Guard currently --

18 MR. THOMPSON: A little louder.

19 MR. RAPPOLI: This is a universe of  
20 vessels that the Coast Guard currently regulates.  
21 It's -- it's, you know, that Congress has given  
22 them that responsibility.

1 MR. THOMPSON: Also had David Zeyher?  
2 Zenger? I'm not sure if that's a Y or a G.

3 MR. ZEYHER: I've already had my say.  
4 Thank you.

5 MR. THOMPSON: Okay. All right. I think  
6 it was Mo Udall once said, "Everything's been  
7 said, but not everyone has said it," so --

8 (Laughter.)

9 MR. THOMPSON: -- that's all I had at the  
10 moment. People who had --

11 MR. SMITH: I signed the list.

12 MR. THOMPSON: Did you? I'm sorry.

13 MR. SMITH: Daniel Smith, first one here.

14 MR. THOMPSON: You're first one here.

15 Well, somehow -- oh, you did. My mistake. I'm  
16 sorry. We should have had you.

17 UNIDENTIFIED MALE: Bad job. Bad, bad  
18 job.

19 MR. THOMPSON: Yes, I'm -- I'm in trouble  
20 now. All right. That -- yeah, Mr. Smith, if you  
21 would. And somehow I missed you on my list.

22 MR. SMITH: Thank you. My name's Dan

1 Smith. I have been a recreational boater for  
2 about 27 years now. I've managed Boat US Marine  
3 Centers. I have been a live-aboard for about  
4 seven or eight of the last years. So I've got an  
5 idea of what's going on.

6 And I went away from the last session  
7 motivated. You know, okay, I've been trying to  
8 do the right thing, but I want to do a better  
9 job. And I wanted to find out just exactly what  
10 I'm putting in the water because even though  
11 there are a lot of people doing a lot more damage  
12 than us boaters, I still have an impact.

13 And quite frankly, Conowingo Dam as bad  
14 as it is, it has a huge impact, but you don't  
15 have jurisdiction, so there's not a heck of a lot  
16 you guys can do about it. Am I correct?

17 MR. THOMPSON: True.

18 MR. SMITH: But I can have a small effect  
19 by a choice of something as simple as my teak  
20 cleaner. So, I did a little shopping. I found  
21 the worst possible product. Two-part teak  
22 cleaner, strong acid, strong alkaline, nowhere on

1 this label does it tell me what's physically in  
2 it. It tells me all kinds of bad things.  
3 Extremely corrosive, contains sodium hydrox --  
4 oh, that actually tells me what's in it. Causes  
5 severe eye and skin burns, respiratory tract  
6 irritant. And the other hydrochloric acid. So  
7 this is pretty nasty stuff.

8 I decided I didn't want to use that on my  
9 teak, so I went to a site that talked about teak  
10 cleaners that said, "Hey, this stuff is great. I  
11 mean, it's almost zero impact on the environment.  
12 It's safe."

13 So I read the manufacturer's spec sheet.  
14 Restores bright natural look to weathered teak in  
15 one step without acids. Hey, that's pretty good.  
16 Removes dirt, mildew stain, black algae and oils.  
17 Will remove all stains and varnish. Will not  
18 harm fabrics, color, vinyl, canvas, carpeting,  
19 metals, paints, fiberglass, or plastic surface.  
20 Safely cleans without damaging or drying wood  
21 fibers. Oh, this is neat. It's biodegradable.  
22 It does not contain chlorine or bleach. So

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1 gentle to skin with no harmful vapors. Wow, this  
2 is really neat stuff. And then it's got  
3 directions how to mix it. It's a powder.

4           So I thought, "This is neat." I wanted  
5 to see what's in it, read the label. Crickets --  
6 nothing. So I went with my boss and I got the  
7 MSDS, Manufacturer's Safety Data Sheet. What  
8 does this say about this wonderful project --  
9 product? What's in it? Trade secret. For those  
10 of you who can't hear, that says, "Trade secret."

11           Well, anyway, I started looking -- well,  
12 what do you do as far as disposal and handling of  
13 this product. So I checked the MSDS and  
14 recognizing they can make a glass of water sound  
15 dangerous -- let's see. Sweep up. Do not return  
16 to original container. Bag spill and clean dry  
17 plastic bag. Small amounts may be flushed to a  
18 drain with water. Comply with federal, state,  
19 and local regulations. Put in an approved waste  
20 facility by authorized contractor. Store cool  
21 place, et cetera, et cetera.

22           Oh, what kind of control measures? Oh,

1 dust mask with local exhaust. Maintain with  
2 adequate ventilation -- the stuff that's so safe  
3 on your skin. Use rubber gloves, goggles, or  
4 glasses, and an apron, and gloves.

5 I still don't know what's in it, and  
6 that's the problem. Brian, you gave away my game  
7 early when you talked about the voluntary green  
8 compliance program.

9 And the gentleman who spoke first about  
10 we need to be trained. We need to be educated.  
11 Thank you. You played right into what I want to  
12 say.

13 That is a good program, but it is not  
14 universally known. Coast Guard's got compliance.  
15 Why not use me and the auxiliary as part of the  
16 education process to that word out there.

17 And by the way, since this stuff is going  
18 in the environment you guys are mandated to  
19 regulate, wouldn't it be nice where they -- if it  
20 were possible for either you or FDA to actually  
21 find out what's in these products so you can  
22 determine what's safe and what's not? And with

1 that, I yield my thunder. [Mr. Smith submitted  
2 the MSDS for Iosso Teak Cleaner.]

3 MR. THOMPSON: Thank you. Let me open it  
4 up to -- to anyone -- if I missed anyone else who  
5 signed up, I apologize -- please so indicate.  
6 But otherwise, I'd like to open up to anyone who  
7 has not yet spoken, and then we'll be happy to go  
8 back to those of you who have.

9 I think -- ma'am? You and then we can go  
10 over to you, sir. Yeah.

11 MS. HOTTLE: My name's Logan Hottle, and  
12 I am a boater and have been so since I was two  
13 weeks old. So it goes -- yeah, right. Well, it  
14 was summer and the rest of the family wanted to  
15 go.

16 But I think that when you're considering  
17 the management practices and what you may be  
18 requiring of the boaters to retrofit on their  
19 boats, you might keep in mind that we now have  
20 side airbags in cars. That doesn't mean that  
21 every car on the road without a side airbag has  
22 to retrofit it. So I think you need to look at

1 this rationally, which there are a lot of cars  
2 out there don't have any airbags. There are a  
3 lot of boats out there that have the bare minimum  
4 of a holding tank because that's all that fits.  
5 So, please be rational.

6 MR. THOMPSON: Thanks. Sir, and then we  
7 will come over to you. For some reason I didn't  
8 have you on the list but fortunately we have  
9 plenty of time, so --

10 UNIDENTIFIED MALE: I had a question  
11 regarding the policing so to speak that I've  
12 heard the Coast Guard name mentioned many times,  
13 but I never see them out on the Bay doing any  
14 policing. I do see the Maryland Natural  
15 Resources Police, I think that get out there once  
16 in a while and stop some of the boats that are  
17 going far too fast in and out of the inlet there  
18 next to our house. So that I'm wondering what  
19 the role is between EPA regulation and the state  
20 enforcement personnel in the various states  
21 around the country.

22 MR. RAPPOLI: I don't know if you heard



1 when I mentioned this during the briefing.  
2 States do have authority under 312 to enforce any  
3 of the regulations we put forward, but it's at  
4 their discretion. You know, here it's the DNR in  
5 Maryland. It varies which agency does it state  
6 by state, but those state agencies with the  
7 authority to enforce boating regulations have the  
8 option to enforce any of the regulations that  
9 come out of the Clean Boating Act.

10 UNIDENTIFIED MALE: That's its option.  
11 (Inaudible) relationship with the state  
12 enforcement people are options.

13 MR. RAPPOLI: They're not required to.

14 MR. THOMPSON: At their discretion I  
15 think we heard.

16 We'll come back to you in a moment if --  
17 it sounds like you had signed up, so let me get  
18 you back to the mike again and if you'd be kind  
19 enough to --

20 MS. LUNSFORD: This time I've got the  
21 written comment. Okay. Again, I'm Jaye  
22 Lunsford, and can I start out by saying I'm

1 hearing a lot of -- kind of cynicism and  
2 hostility. And ultimately, the boaters and EPA  
3 have a common goal which is to be on clean water.  
4 We may disagree with the priorities for getting  
5 there, but we all kind of have the same goal, and  
6 I'd like to keep that in mind.

7           I'm thinking from what I'm hearing about  
8 these management practices which are essentially  
9 things to do, not pieces of hardware to install.  
10 But I'm hearing a three-prong approach. One is  
11 education for things like not -- like washing  
12 your boat before going from one invasive species  
13 area to perhaps transport them to another. One  
14 is the regulations and practices that are -- that  
15 already exist and the new ones that you're  
16 developing. And the third, I think, because  
17 boaters do want to be on clean water is to  
18 provide a lot of alternatives and make it really  
19 easy for people to do the -- quote -- the right  
20 thing.

21           I offer as a lesson learned the sewage  
22 pump-out facilities here in Annapolis. In the

1 past and in other places -- and I should say we  
2 live on our sailboat and have done so for the  
3 last nine years. So there are places where we  
4 had to physically move the boat from where it  
5 was, you know, untie our dock lines, motor over  
6 to a pump out, tie up to that dock, have it  
7 pumped out, and then go back about our business.

8           And the City of Annapolis, with a grant  
9 from DNR, funds a pump-out boat that will come to  
10 you for the nominal fee of \$5. And that thing's  
11 always busy. And it works. If you make it easy  
12 and people will go out of their way to do the  
13 right thing. So I offer that as one -- sort of  
14 as an example of one way to do it.

15           MR. THOMPSON: Thank you. I think I saw  
16 a hand in back. Did I?

17           UNIDENTIFIED MALE: (Inaudible) notes.

18           MR. THOMPSON: All right. We can -- oh,  
19 you mean later, not right now.

20           (Laughter.)

21           MR. THOMPSON: I thought you wanted the  
22 mike right now. All right.

1 UNIDENTIFIED MALE: No, no, no, no,  
2 (inaudible).

3 MR. THOMPSON: Come -- sure. We can come  
4 back to you. Yeah.

5 So we'll open it up to anyone at this  
6 point.

7 MR. YORK: We'll just pass the mike  
8 around.

9 MR. THOMPSON: That works.

10 MR. YORK: Pursuant to the conversation  
11 that was started earlier and my addition to  
12 challenging acts and whatnot, what has the EPA  
13 done to engage with the agencies that do have  
14 jurisdiction over what seems to be commonly  
15 recognized as the larger portion of the problem  
16 to collaboratively come up with a solution?

17 I'm, again, working in the government.  
18 We're very good at compartmentalizing, and nobody  
19 talks to anybody, which is one of the things I'm  
20 trying to fix. And so I'm just curious as to now  
21 and in the future what there has been done and  
22 what plans there are. Thank you.

1           MR. COUGH: Thanks for that question. By  
2 the way, I appreciate all the questions and all  
3 the answers. We're listening carefully -- a lot  
4 of good ideas.

5           That question's not per se about the  
6 recreational boating. It's about a much larger  
7 topic. One thing we're doing is for the great  
8 water bodies in the United States we do have  
9 these collaborative programs among a number of  
10 federal agencies. For example, Chesapeake Bay.  
11 There is a program with the EPA, and NOAA, and  
12 parts of the Department of Interior -- various  
13 agencies that have some sort of federal  
14 jurisdiction over Chesapeake Bay or USDA, too,  
15 our upstream watersheds reaching up to New York,  
16 and also with the state governors and states.  
17 And so everyone that has some authority is  
18 involved there. So that happens for Chesapeake  
19 Bay.

20           There's a similar but larger effort for  
21 the Great Lakes -- almost the same agencies.  
22 There's the Great Lakes Restoration Initiative.

1 And that has major funding through Congress and  
2 from the states. In addition to the Great Lakes,  
3 there's a similar agreement with Canada because  
4 those are shared water bodies. So all the  
5 relevant agencies in the U.S. and states and  
6 their counterparts in Canada are all part of  
7 that.

8           The Gulf of Mexico, there's something  
9 similar, but it's not an enclosed water body. So  
10 for the various water bodies we are managing more  
11 and more the federal government working with  
12 state and local governments on a water body-by-  
13 water body basis.

14           Similarly, EPA has the National Estuary  
15 Program. Estuaries from Casco Bay to Indian  
16 River, Florida, to Mobile Bay, to Santa Monica  
17 Bay, San Francisco Bay, Puget Sound -- these are  
18 programs by one agency or another but bringing in  
19 all the agencies together because each agency --  
20 it's one of the weaknesses of the federal  
21 government that we have a bunch of different  
22 stovepipes. Each agency has its own stovepipe,

1 and we do our own thing and the natural  
2 connection -- there are natural divisions  
3 reporting to different committees in Congress,  
4 but we try to do what makes sense, which is when  
5 we're working in a particular area, we try to fit  
6 our pieces of the puzzle together to do the right  
7 thing. Just as -- and it's hard. Sometimes  
8 you're cutting against the grain to do that, but  
9 that's nevertheless what we're trying to do.  
10 Thank you.

11 MR. THOMPSON: Thanks. I think the  
12 gentleman here.

13 MR. WALSH: Just a little editorial  
14 comment if you guys don't mind -- and I beg your  
15 indulgence. I understand the hard work that --

16 MR. THOMPSON: If you wouldn't mind  
17 identifying yourself?

18 MR. WALSH: My name is Jim Walsh.

19 MR. THOMPSON: Thanks.

20 MR. WALSH: I'm a 35-year veteran if you  
21 would call it that. I guess in today's  
22 environment we are veterans of the marine

1 industry. We feel like we're in the clean water  
2 business. With no offense, I hope that you guys  
3 take -- you guys are in the dirty water business.  
4 It is our absolute commitment to our customers  
5 and the environment that we keep the water clean.  
6 So if this seems to be a, you know, a pull and a  
7 tug, I apologize for it, but in our business  
8 that's the way we feel.

9 I just wanted to touch on your five  
10 bullet points on discharge types under  
11 consideration. First one is oily bilge water and  
12 other sources of oily waste which I think is  
13 already prohibited for discharge on any water  
14 surface anywhere in the United States.

15 Engine maintenance and fueling practices  
16 -- any way that I look at that tells me that  
17 that's also -- or just a subsection of bullet  
18 point one. If there's engine maintenance  
19 problems while the boat is afloat, it'll turn  
20 into oily bilge water. And again, that's  
21 prohibited currently.

22 The third bullet point is cleaning and



1 other maintenance practices. I don't understand  
2 that. I do understand it, but I'd like more  
3 clarity on that.

4 Anti-foulant and corrosion control  
5 systems, which I believe your agency controls and  
6 regulates at a high level currently. Certainly  
7 the anti-fouling paint part of that. The  
8 corrosion control systems part is fairly vague,  
9 but I think I know where you're going there.

10 And then the last thing is gray water and  
11 similar discharges. So I'm going to ask for  
12 clarification about what you folks foresee as  
13 either management practice -- I don't know what  
14 the term would be -- suggestions or regulations  
15 regarding cleaning and other maintenance  
16 practices and gray water and similar discharges.

17 MR. THOMPSON: Any thoughts on that?

18 MR. RAPPOLI: We gave you a couple of  
19 examples that states currently recommend for  
20 boaters, and, you know, it's things like what can  
21 you do to prevent oil from getting into your  
22 bilge. Everyone understands that 311 already

1 prohibits the discharge of oily bilge water.

2 UNIDENTIFIED FEMALE: (Inaudible.)

3 MR. RAPPOLI: Pardon?

4 UNIDENTIFIED FEMALE: That is not the  
5 question. He asked (inaudible) --

6 MR. RAPPOLI: I'm sorry. I cannot hear  
7 you.

8 UNIDENTIFIED FEMALE: He asked  
9 (inaudible) do to prevent gray water. He didn't  
10 ask anything about oily (inaudible) --

11 MR. THOMPSON: I think he asked several  
12 questions.

13 MR. RAPPOLI: He asked several questions,  
14 ma'am.

15 MR. THOMPSON: That was one of them so  
16 let's -- let's hear the response.

17 MR. RAPPOLI: So I mean, what we're  
18 looking at and what is framing our approach is  
19 what states are already having boaters do or  
20 requesting boaters to do. But in terms of giving  
21 you specifics, EPA has not made any determination  
22 on that, so I really can't tell you exactly what

1 we're planning.

2 MR. WALSH: But then at the point where  
3 we are now it's just public comment. At what  
4 point after you decide what your -- by your own  
5 statement what you're planning, how much of a  
6 comment period is there going to be before  
7 something is enacted?

8 MR. RAPPOLI: There will be another  
9 outreach period when we go to proposal. And  
10 citizens like yourself can provide input once we  
11 actually have the formal proposal for the  
12 regulations.

13 MR. WALSH: Okay. Thank you very much.

14 MR. THOMPSON: That's one of the aspects  
15 of this -- this period in time where, again, the  
16 good news is you're able to -- to get your views  
17 known early and hopefully shape EPA's thinking on  
18 this. On the other hand, they're not far enough  
19 along to be able to answer some of these  
20 questions as precisely as you might like.

21 You're ready. Okay. Sorry for taking  
22 you too literally last time.

1           MR. EASTER: My name's Cameron Easter.  
2 I'm an Officer of the United States Park Police  
3 in Washington, D.C. I'm formerly with U.S.  
4 Customs in Baltimore. We generally deal with a  
5 lot of larger vessels if they discharge, pollute  
6 the water, et cetera.

7           My first question is -- and I'm also a  
8 boater in the Bay, in the Potomac, and the  
9 Patuxent my entire life.

10           My first question is what is the penalty  
11 or what is the idea of the penalties for  
12 recreational boaters if they're caught  
13 discharging? Is it a -- and is it a criminal  
14 penalty? Is it a criminal regulation? Is it a  
15 felony? Is it a misdemeanor? Is it jail-able?  
16 I mean, what do you guys -- is it a fine?

17           UNIDENTIFIED PANEL MEMBER: (Inaudible.)  
18 best I can.

19           MR. EASTER: That's what they're trying  
20 to figure out, huh? All right.

21           (Laughter.)

22           MR. LISHMAN: Yeah -- no, I'm sorry. I

1 don't have a copy of the statute with me. I  
2 mean, generally speaking, it would be monetary  
3 penalties.

4 MR. EASTER: Uh-huh.

5 MR. LISHMAN: I'm assuming 'cause the 312  
6 enforcement provisions are different from what  
7 you would see in the rest of the Clean Water Act,  
8 I'm going to assume the 312 probably has criminal  
9 provisions. I don't know of any instance where  
10 they've ever been invoked if they do exist.  
11 Generally speaking, the fines under 312, I think  
12 it's fair to say, could be characterized as less  
13 than what you would normally get for other types  
14 of activities under the Clean Water Act. I mean,  
15 the enforcement regime under 312 is, I think, not  
16 as rigorous would be a fair way to characterize  
17 it as compared to other parts of the Clean Water  
18 Act, but I don't have the statute in front of me  
19 to be able to answer you like in the detail  
20 perhaps you would want. And I apologize for  
21 that.

22 MR. EASTER: All right. Well, I mean,

1 you know, working with commercial vehicles,  
2 generally it's all large fines, obviously. And  
3 usually hear about it, gathering the evidence for  
4 it and so forth, it's already -- it's usually  
5 passed since you have a lot of witnesses 'cause  
6 it's -- in other words, if you've got a cruise  
7 ship coming up the Bay and their crew says,  
8 "Yeah, we dumped a bunch of stuff down by Point  
9 Lookout." Well, you're in Baltimore. All you  
10 got to do is go based on what the witness says  
11 and you assess the fine and penalty by  
12 investigating what's on the boat.

13 Obviously if there's dirty water missing  
14 from a holding tank, obviously it went somewhere  
15 and so forth. You get what I'm saying?

16 MR. LISHMAN: Right.

17 MR. EASTER: So you would assess a  
18 penalty that would generally be a fine for the --  
19 for the cruise ship company, whatever.

20 And you were saying that it's up to the  
21 state and local jurisdictions to enforce these  
22 regulations. And again, you're saying it's

1 generally going to be a monetary fine, right --  
2 most likely?

3 MR. LISHMAN: I mean, most likely. And  
4 certainly, you know, in the case of recreational  
5 boaters even more likely.

6 MR. EASTER: Right. Okay. And is that  
7 something you guys are going to be trying to  
8 figure out or you already figured this out?

9 MR. LISHMAN: There is -- within 312  
10 there is a -- I mean there are statutory  
11 provisions that say what the penalties can be and  
12 how they're assessed.

13 MR. EASTER: Uh-huh.

14 MR. LISHMAN: So I mean it's not so much  
15 -- quote, unquote -- trying to figure it out  
16 because the statute says what can and can't be  
17 done already.

18 MR. EASTER: It's already spelled out  
19 somewhere?

20 MR. LISHMAN: It's a question of working  
21 with the Coast Guard or working with -- with  
22 state agencies to see what role they want to play

1 in enforcement.

2 MR. EASTER: Uh-huh.

3 MR. LISHMAN: Ultimately, EPA is not the  
4 enforcing agency here. It --

5 MR. EASTER: I understand.

6 MR. LISHMAN: -- is the Coast Guard or  
7 the states. And we would work with them to --

8 MR. EASTER: Figure it out?

9 MR. LISHMAN: -- make sure they're aware  
10 of what -- what the regulations when they are  
11 finalized, what they say, what they require --

12 MR. EASTER: Uh-huh.

13 MR. LISHMAN: -- but it's ultimately  
14 going to be up to them to decide how much  
15 resources, manpower, time, and effort they want  
16 to devote to --

17 MR. EASTER: Right. I mean --

18 MR. LISHMAN: -- carrying out their  
19 enforcement responsibilities.

20 MR. EASTER: -- like other people have  
21 said -- like other people have said, you may see  
22 DNR or even my agency enforcing environmental



1 laws once in a great while, but --

2 MR. LISHMAN: That's --

3 MR. EASTER: -- it's not often. Usually  
4 it's commercial violations because those are the  
5 big cases.

6 MR. LISHMAN: Right. And that is  
7 typically where you would expect agencies to  
8 focus their resources because there is more sort  
9 of --

10 MR. EASTER: It's a greater impact.

11 MR. LISHMAN: -- payoff for it.

12 MR. EASTER: Right.

13 MR. LISHMAN: You know, you get more  
14 return on your effort.

15 MR. EASTER: Now, when you say any  
16 chemical discharge, are you guys including the  
17 emissions?

18 MR. LISHMAN: No air emissions. We're  
19 strictly talking -- I'm sorry. Are you talking  
20 in the context of the emissions -- air emissions  
21 from engines or --

22 MR. EASTER: Right.

1           MR. LISHMAN: No, we're strictly talking  
2 liquid effluent discharges back to water.

3           MR. EASTER: Well, now, some -- now some  
4 boat engines their exhausts dump into the water.

5           MR. LISHMAN: Yes, when --

6           MR. EASTER: And it just bubbles out and  
7 turns into --

8           MR. LISHMAN: (Unintelligible) engine  
9 exhaust like, things that have like your -- a  
10 return flow back to water?

11          MR. EASTER: Uh-huh.

12          MR. LISHMAN: Those kinds of things could  
13 be subject to regulation.

14          MR. EASTER: Okay. And then I heard -- I  
15 came in late, so I missed a lot. So I'm sorry if  
16 I'm -- you guys already gone over this.

17                 But as far as retrofitting older boats,  
18 is the government going to propose some sort of  
19 boat buy-back program to get the clunkers off the  
20 water because I wouldn't mind getting a new boat  
21 for that.

22                 (Laughter.)

1           MR. LISHMAN: I mean, I think as Brian  
2 noted at the outset, I mean, the focus here is on  
3 management practices. And by that we mean  
4 practices, things that boaters do or don't do.  
5 We're not looking -- at least in the first  
6 instance -- to focus on hardware-oriented  
7 solutions.

8           MR. EASTER: Uh-huh.

9           MR. LISHMAN: We are looking primarily at  
10 things that existing state boating laws might  
11 already require.

12          MR. EASTER: Uh-huh.

13          MR. LISHMAN: We're looking at things  
14 that industry organizations may have circulated  
15 as being the best management practices for  
16 boaters to follow. And we're -- we're trying to  
17 build from things that are already out there.

18           I would be -- think it would be extremely  
19 unlikely that you're going to see regulations  
20 proposed for recreational boaters that are going  
21 to be telling them that you have to do extensive  
22 hardware retrofits to your vessel.

1 MR. EASTER: Right. Well, you've got to  
2 -- they wouldn't pay for it.

3 MR. LISHMAN: I mean, I can't -- you  
4 know, we have not proposed yet, so I can't tell  
5 you exactly what it's going to look like --

6 MR. EASTER: Uh-huh.

7 MR. LISHMAN: -- but I think it would be  
8 fair to say that is not something that we are  
9 going to be seriously pursuing unless through  
10 this outreach process somebody starts suggesting  
11 that's something we should do or comes up with  
12 the magic bullet of some kind of hardware that's  
13 going to solve all the problems.

14 MR. EASTER: So in other words you're  
15 trying to curb how people boat?

16 MR. LISHMAN: Not curb how people boat.  
17 We are trying to encourage people to be good  
18 stewards and to do things that, hopefully,  
19 they're already doing because the existing  
20 management practice and things that are out there  
21 already are --

22 MR. EASTER: Right.

1 MR. LISHMAN: -- suggesting this is what  
2 a good steward of the environment would be doing.

3 MR. EASTER: Right, right, right. Okay.  
4 Thank you.

5 MR. THOMPSON: Thank you. Other  
6 comments, questions?

7 UNIDENTIFIED MALE: (Inaudible) take a  
8 break.

9 MR. THOMPSON: Okay. We're going to take  
10 -- you might as well wander up, but we're  
11 flipping the tape, so don't walk too fast.[Add  
12 note that recording was paused while fresh media  
13 was placed in recorder.]

14 MR. PIROZZI: But tell your boss you got  
15 bigger problems and ask to be reassigned. The  
16 last request --

17 (Laughter and applause.)

18 MR. PIROZZI: And I was going to say this  
19 even before Mr. York read the California laws on  
20 discharges. Please do not imitate those people  
21 in California.

22 (Applause.)

1 MR. PIROZZI: Thank you.

2 MR. THOMPSON: Any other comments,  
3 thoughts before we wrap things -- yes? Come on  
4 back up.

5 UNIDENTIFIED SPEAKER: I just have a  
6 question.

7 MR. THOMPSON: Sure.

8 UNIDENTIFIED SPEAKER: I'm curious once  
9 you promulgate rules and regulations and we have  
10 to make physical or mechanical changes to our  
11 vessels, do any people or any of your committees  
12 ever come up with what it's going to cost the  
13 consumer?

14 I know my personal experience with the  
15 FAA is if you want to make a change in an  
16 airplane and the FAA comes out with an edict,  
17 they also have to come out with an estimate of  
18 what it's going to cost the aircraft owner or  
19 user. Are you required to do so? And if you're  
20 not required, I would like you to be required or  
21 at least have the courtesy to tell us what it's  
22 going to cost us to make the necessary changes

1 that you may want us to do.

2 UNIDENTIFIED MALE: They're Googling that  
3 answer right now.

4 MR. RAPPOLI: As we've mentioned before,  
5 we are not envisioning at this time any type of  
6 regulations that are going to require you to  
7 retrofit your boat or to install expensive  
8 equipment. I don't know how else to state that,  
9 but I hope I've made it clear.

10 And, yes, we are required to provide a  
11 cost estimate when we put forward a rule. So it  
12 would provide an analysis of what we would expect  
13 the average boat owner to see in terms of cost  
14 for implementing any of the regulations that come  
15 forward.

16 UNIDENTIFIED MALE: So the answer  
17 basically is no, (inaudible) required?

18 MR. RAPOLLI: No, the answer is yes, we  
19 are required.

20 MR. THOMPSON: Yeah, it sounds like -- if  
21 I can just reiterate that -- that what EPA is  
22 saying is that they are required to do exactly

1 what you're asking for, although in this case  
2 they're not anticipating sort of expensive  
3 mechanical-type changes.

4 UNIDENTIFIED MALE: If you-all promulgate  
5 a rule and regulation and changes must be made,  
6 you will also tell us what you think it's going  
7 to cost us; is that correct?

8 MR. RAPPOLI: That is correct.

9 MR. THOMPSON: That's right.

10 Did I see another -- yes. And even if  
11 you've been up before, if you don't mind just  
12 restating your name so we can get that on the --

13 MR. EASTER: Again, my name's Officer  
14 Cameron Easter with the United States Park  
15 Police.

16 Just two other questions -- again, I was  
17 late. If they were already answered, I  
18 apologize. What data and where can we find data  
19 that would represent the impact recreational  
20 boating has on clean waterways?

21 MR. RAPPOLI: When we make a  
22 determination for our rulemaking that will be



1 published as part of their rulemaking.

2 MR. EASTER: So you're thinking about  
3 enforcing this, and once you decide to enforce  
4 it, you're going to have to --

5 MR. RAPPOLI: We are not the enforcement  
6 agency.

7 MR. EASTER: Okay. Let me rephrase it.  
8 When you create the rules and you decide to  
9 create the rule, then you will have the data that  
10 represents why you created the rule the way  
11 you've decided?

12 MR. RAPPOLI: Right. We will provide a  
13 rationale for why we develop the rules. And that  
14 will be released when we put forward our Notice  
15 of Proposed Rulemaking.

16 MR. EASTER: Well shouldn't that be kind  
17 of released in process?

18 MR. RAPPOLI: We're at a pre-decisional  
19 stage, so it's not available. We haven't  
20 completed the work.

21 UNIDENTIFIED FEMALE: (Inaudible) a pre-  
22 decisional stage?

1 MR. LISHMAN: Can I --

2 MR. RAPPOLI: Well --

3 MR. LISHMAN: Can I try to clarify what I  
4 think my colleague was trying to say? And I  
5 think -- I think it answers your question but --

6 MR. EASTER: Yeah, I kind of understand  
7 what you're saying.

8 MR. LISHMAN: -- correct me if I'm wrong.

9 I think what we were trying to say here  
10 is we do -- when we have a specific idea in mind  
11 of what the management practices are going to be,  
12 they're going to go out in a form of proposed  
13 rulemaking. You will see exactly what we're  
14 thinking of doing as a final rule. At that same  
15 time that comes out it will come with a cost  
16 analysis of what we think it's going to cost  
17 people to do this. It will come with a technical  
18 support document that will explain the scientific  
19 basis, why we think these practices are warranted  
20 or necessary.

21 MR. EASTER: Right.

22 MR. LISHMAN: And all of that -- the

1 practices, all the supporting information that  
2 goes with it to explain why we are thinking about  
3 doing what we want to do is available for public  
4 comment.

5 MR. EASTER: So it will kind of all come  
6 together in --

7 MR. LISHMAN: It all comes --

8 MR. EASTER: -- in the end?

9 MR. LISHMAN: -- at the proposal. And,  
10 you know, we're at the stage right now of trying  
11 to get input from the public --

12 MR. EASTER: Uh-huh.

13 MR. LISHMAN: -- before we come out with  
14 an idea for you to then comment on the details of  
15 what we're thinking about doing.

16 MR. EASTER: When do you project that you  
17 will be ready to make the proposal? A year from  
18 now, five years from now?

19 MR. RAPPOLI: Summer of next year.  
20 Summer of next year.

21 MR. EASTER: Okay. And just to reiterate  
22 the idea that was just made a few minutes ago,

1 the environmental crimes and the impact on the  
2 pollution that I see are not from recreational  
3 boating. It's just -- it's rare if you do see  
4 it. And if you do see it, it might be at a  
5 marina or where it collects generally.

6           And again, can the EPA and other agencies  
7 devoted strictly to environmental crimes and  
8 environmental impact -- can they invest more  
9 time, money, and energy on ways that the public  
10 can get involved to report environmental crimes  
11 that cause a greater impact?

12           I was just down at Hains Point this  
13 morning, downtown Washington, D.C. And the dirty  
14 water and the -- and the things that are  
15 polluting the waterways in Washington, D.C. are  
16 not from recreational boaters. In fact, you guys  
17 are downtown, right? You guys are at the EPA  
18 building. There's not that many recreational  
19 boaters in the D.C. area anyway. Most -- 10  
20 times more in Annapolis and Baltimore. So the  
21 pollution there is not from recreational boating.  
22 So it seems like this is -- like the gentleman

1 said, you know, killing a fly with a  
2 sledgehammer. I mean, there's other things that  
3 the EPA could be doing that would clean up the  
4 water -- waterways much quicker.

5           So, just -- if you can keep that in mind  
6 as you guys are putting all this together in the  
7 next year and a half, just know that when you're  
8 looking at the rivers, and the creeks, and the  
9 streams, and the -- and so forth, the majority of  
10 the pollution there is not from recreational  
11 boating.

12           I totally agree that it should be managed  
13 properly, and I appreciate what you guys are  
14 doing as well, and I agree. And I feel that I am  
15 a responsible boater, but there is other stuff  
16 out there affecting me as a recreational boater  
17 that is an environmental impact and environmental  
18 crime. And I enforce those laws, but it's like,  
19 you know, it's like going after a very big thing  
20 and you can't go after all of it. So -- and with  
21 that, thank you.

22           MR. THOMPSON: Thank you. Yes, ma'am.

1 MS. HOTTLE: I'm Logan Hottle, and I have  
2 a question for you gentlemen. How many of you  
3 are boaters?

4 (Indicating.)

5 MS. HOTTLE: Hmm, 50 percent. And how  
6 many of the people who are working on these  
7 regulations are boaters and have an understanding  
8 of what a boater is?

9 MR. RAPPOLI: Couldn't answer that  
10 question.

11 MS. HOTTLE: So to sort of use a  
12 pejorative phrase, these regulations might be  
13 written by desk jockeys who have no experience  
14 with what they're writing about?

15 MR. RAPPOLI: I don't know if you heard  
16 the beginning of the briefing, but I explained  
17 that we're working on this rule jointly with the  
18 U.S. Coast Guard, and perhaps you may not want to  
19 trust EPA --

20 UNIDENTIFIED FEMALE: (Inaudible.)

21 MR. RAPPOLI: -- but hopefully you would  
22 trust the expertise of the U.S. Coast Guard.

1 MS. HOTTLE: Okay. But the -- the list -  
2 - and several people have spoken to the list of  
3 five items. And with expertise about discharge  
4 and so on, but the gray water and similar  
5 discharges, if you're a boater, you know is  
6 pretty much self-limiting. We don't carry enough  
7 fresh water to make it gray and have enough water  
8 left to finish our trip. So, I mean it -- that  
9 doesn't make a lot of sense to me.

10 MR. RAPPOLI: Well, if I could explain, a  
11 lot of people do ask why gray water is on that  
12 list. It's because the folks who wrote the  
13 statute specifically mention it as one of the  
14 discharges that we had to consider.

15 UNIDENTIFIED SPEAKER: (Inaudible.) well  
16 they don't know anything about (inaudible).

17 MR. THOMPSON: Did I see a --

18 UNIDENTIFIED MALE: Will you be using the  
19 law enforcement agencies as one of the data  
20 sources for the -- for the environmental impacts?  
21 The U.S. Coast Guard, DNR -- will you be using  
22 their data as part of your data set to --

1           MR. RAPPOLI: We are using all of EPA's  
2 previously collected technical data. We're using  
3 studies that were conducted by state agencies,  
4 other federal agencies, even studies that are  
5 being conducted by academicians.

6           UNIDENTIFIED MALE: And I assume all that  
7 data will be (inaudible) --

8           MR. RAPPOLI: It will be in our either,  
9 you know, specifically quoted or cited in our  
10 technical support document.

11          MR. THOMPSON: So it sounds like, you  
12 know, one of the dominant themes that we've been  
13 hearing tonight is the skepticism at least within  
14 this group that recreational boaters are a  
15 significant contributor to the water quality  
16 problems in part because there are so many other  
17 greater insults to the water that some of you  
18 have pointed to. And also, several of you  
19 mentioned that by and large recreational boat  
20 owners are a responsible group that already care  
21 about the water and are trying to take care of  
22 it.



1           And some of you also indicated, though,  
2 that you understand the position EPA is in.  
3 They've been given this task partly due to past  
4 litigation and Congress' response to that. And  
5 so that you've offered some suggestions about how  
6 they might do that and some of you have suggested  
7 that perhaps if EPA agrees that this is not such  
8 a significant problem to try to push back up --  
9 up the chain. Although as you all know, it's  
10 Congress, not the agencies that make the laws.

11           And we also heard some you might say some  
12 hunger for data tonight. Some of you said,  
13 "Well, what -- what's the basis for some of this?  
14 And what sort of studies is the agency relying  
15 upon to move forward with this?" And I think we  
16 heard from the agency that, you know, when it  
17 comes forward with the proposed rule, perhaps in  
18 summer of 2012, there will be an opportunity to  
19 comment on that proposed rule. And running with  
20 that rule would be the basis, the rationale, for  
21 what it's proposing to do.

22           You know, in the old days we wouldn't

1 have had a meeting like this. The proposed rule  
2 would have just come out and the people would  
3 comment on it. So the idea here is to try to get  
4 your input earlier on so that that proposed rule  
5 can be fashioned better than it otherwise might  
6 be.

7           And some of you also mentioned that, you  
8 know, we should all have kind of a shared goal  
9 here in terms of -- of clean water and that there  
10 are ways perhaps to work together to at least  
11 have some incremental benefits from those impacts  
12 that might occur from recreational boating.

13           Let me just ask are there other -- other  
14 comments, questions? We -- we have a few more  
15 minutes, and then I want to turn it over to EPA  
16 to close things out. Yeah.

17           MR. YORK: Steve York again. So as I'm  
18 listening to all of these comments going back and  
19 forth, you should be pretty clearly receiving the  
20 message that this is a -- particularly locally  
21 here -- feeling fairly put upon, feeling  
22 victimized by entities upstream of us, Conowingo

1 Reservoir, the sewage treatment plants and that -  
2 -

3 UNIDENTIFIED SPEAKER: (Inaudible.)

4 MR. YORK: -- pretty much everything.  
5 Hog farms on the Eastern Shore. I mean, it's  
6 just surrounding us. And so we are feeling very  
7 victimized and that we are a much maligned group  
8 of citizens.

9 I think as you go forward with this, to  
10 be proactive and responsible in your approach to  
11 this, you must address the gray water. I  
12 understand that. I would hope that from what you  
13 have heard from a self-policing community of  
14 citizens that's not your biggest problem, and I  
15 would hope that you would de-prioritize that in  
16 your feedback to saying, you know what? This is  
17 a small problem. Most of us carry 20, 30 gallons  
18 onboard, and most of it goes right out as  
19 basically fresh water with a couple of teaspoons  
20 of soap perhaps over the course of a weekend.

21 Oil discharge, a bigger deal, clearly.  
22 So if you focus to help educate and help provide

1 somebody a thought process, let's say, for  
2 example help in reminding somebody to shut off  
3 their bilge pump when they're changing their oil  
4 so that in the event that they have a problem,  
5 the oil may go into the bilge, but it stays  
6 there. It doesn't automatically get tripped and  
7 dumped overboard. Now you've got a problem. If  
8 we can keep it in the bilge, I can handle that.  
9 I can work with my mechanic and handle that.

10           So, focusing on intelligent things to  
11 solve your problem while not creating additional  
12 burdens on us, using common sense, I think, is  
13 the best approach for you. If you -- we can work  
14 together to prioritize your five items, we can  
15 help there if you let us. And I think forums  
16 like this will help, but -- I'll leave it at  
17 that. And with that I'll thank you.

18           MR. THOMPSON: And to my mediator,  
19 neutral ears what you've just said sounds pretty  
20 similar to what some of the things EPA was saying  
21 at the outset themselves. So, it may be a --  
22 some of these issues it may be possible to come

1 together on more than it might seem initially.

2 I'd like -- yep, want to --

3 MR. FLEMING: My name is Drew Fleming. I  
4 just had a quick thought. If part of what you're  
5 doing is focusing on management practices and  
6 trying to keep things simple and easily done,  
7 which means it's more likely to -- to get  
8 accomplished.

9 Then perhaps there's a way to create an  
10 incentive program for manufacturers of cleaning  
11 products and engine maintenance products to  
12 create products that are going to be used to --  
13 to meet that goal as opposed to requiring some  
14 practice that then drives them to create the  
15 product. If you incentivize them instead, maybe  
16 there's a way to do that. So, just a thought.

17 MR. THOMPSON: All right. I think with  
18 that I'd like to turn it back to EPA to --  
19 Darrell is to give a few closing thoughts. Just  
20 from my end I'd like to say thank you all for  
21 coming this evening, and I hope none of you are  
22 feeling as Groucho was once repeated to have said

1 that, "I've had a perfectly wonderful evening,  
2 but this wasn't it."

3 (Laughter.)

4 MR. THOMPSON: I hope it's better than  
5 that. So, Darrell.

6 MR. BROWN: And I'm supposed to take that  
7 over from there -- that comment, huh, Doug?  
8 Okay.

9 My name is Darrell Brown, and I work with  
10 EPA. I've been involved with environmental  
11 protection issues for close to 30 years now. And  
12 once again I would like to say how much we  
13 appreciate all of you folks coming out tonight  
14 and taking the time out of whatever else you  
15 might have been doing tonight to give us your  
16 thoughts. There's been some very insightful  
17 comments, some very useful comments that we've  
18 heard tonight. And we are going to take all of  
19 those back, you know, home with us and take a  
20 look at those as well as the other sessions that  
21 we're conducting so that we can try to figure out  
22 what may be the best approach here given what

1 Congress has asked us to do.

2           Just in terms of -- I think Doug gave a  
3 good synopsis of some of the comments, but I  
4 wanted to -- to refer back to a couple of those.  
5 We heard loud and clear that there are many, many  
6 pollution sources out there and that recreational  
7 boaters -- I think kind of like this panel up  
8 here -- share the goal of wanting clean water.  
9 We want to protect our nation's waters to keep  
10 them safe to swim so we can -- fishable,  
11 swimmable waters but also clean waters so that  
12 you can boat in those. So I think we share that  
13 common goal there.

14           We've heard that there's a lot of  
15 different pollution sources. And, again, that  
16 boaters are not significant contributors to those  
17 problems.

18           We heard a number of comments here  
19 tonight about be rational, use common sense, that  
20 we need to take a very hard look at the economics  
21 of what it's going to cost to boaters for some of  
22 these activities or programs. You know, whatever

1 we may propose down the road a year from now we  
2 need to take a look at those economics, but we  
3 also heard several people talk about that  
4 education is a -- a significant component of  
5 this. So using --

6 UNIDENTIFIED FEMALE: (Inaudible.)

7 MR. BROWN: -- the -- you know, the -- the  
8 marina operators, the boat manufacturers, the  
9 Coast Guard Auxiliaries, you know, there's a  
10 number of different ways that we can use -- use  
11 education as a way of promoting some of these  
12 activities.

13 And then I would like to kind of finish  
14 up in terms of -- someone asked how many boaters  
15 there were up here. And I used the same example  
16 at the last session we were at. I would love to  
17 be a boater, but I've married a woman who is very  
18 motion susceptible, and so she is not good at  
19 boating, so we've kind of stayed away from that.

20 But I'm an oceanographer by training. So  
21 I have spent a number of years on different  
22 cruises in the North Pacific -- Pacific



1 Northwest, the Atlantic Ocean, the Gulf coast, so  
2 I have been out on the water, and I enjoy boating  
3 activities. And I enjoy that experience as well  
4 as all of you do here.

5 Two closing thoughts: We do have two  
6 additional seminars, webinars coming up so that  
7 if some of your colleagues or friends did not get  
8 an opportunity to come out here tonight and are  
9 interested, those webinars are May 5<sup>th</sup> and May  
10 10<sup>th</sup>. And I think they're listed on the agenda.

11 MR. RAPPOLI: It's on the website.

12 MR. BROWN: Yeah. The website, again, is  
13 epa.gov/cleanboatingact. And that's on the  
14 agenda also.

15 And then to reiterate one last thing that  
16 Brian indicated that this is the early part of  
17 our process, that we are soliciting ideas and  
18 comments. And once we -- as John pointed out --  
19 once we do make a decision on this, probably the  
20 summer of 2012 all of this information will be  
21 once again released so that you can have a full  
22 opportunity for -- for comment. So thanks you --

1 everybody for coming out tonight and we'll be  
2 glad to stick around here if you have any follow-  
3 up questions for us. Thanks.

4 MR. THOMPSON: I see in back who would  
5 like to speak -- in the red shirt?

6 UNIDENTIFIED SPEAKER: I'd just like  
7 (inaudible) webinars aren't held some in the  
8 evening versus all daytime webinars because there  
9 are some of us who still have to work.

10 MR. RAPPOLI: We had two in the evening.  
11 One was held at 6:00 p.m., one was held at 8:00  
12 p.m., but if you weren't able to attend either of  
13 those, there's actually a streaming video of one  
14 of the webinars, so you can watch a recorded  
15 session if the remaining opportunities are not  
16 convenient for you or your friends.

17 UNIDENTIFIED MALE: Something that I  
18 didn't pick up from any of our conversations this  
19 evening is there seems to be an ongoing  
20 assumption that boaters are people that people  
21 that boat on the water, that they don't become  
22 part of it. The folks in the room here and the

1 folks that I interact with -- again, hundreds and  
2 thousands over years -- we get out of our boats.  
3 We swim in the water. We fish in the water. We  
4 crab in the water. We are as dependent upon  
5 clean water as you are, but I haven't heard  
6 anything or seen -- I mean, I got involved in  
7 this back in 2008. And I've never seen anything  
8 documented that recognized that boaters are in  
9 the water as well. And I think that's an  
10 important distinction for you to take forward.  
11 Thank you.

12 (Whereupon, the meeting was concluded.)

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