

Transcript of
Maryland Boat Act Advisory Committee Meeting

Date: April 24, 2014 on Thursday

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MEETING OF THE
MARYLAND BOAT ACT ADVISORY COMMITTEE

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The above-entitled matter came on for hearing on Thursday, April 24th, 2014, commencing at 10:00 a.m., at Annapolis Friends Meeting House, Annapolis, Maryland, Ramona Trovato, committee chair, presiding.

COMMITTEE MEMBERS:

- | | |
|-------------------|--------------------|
| John Pepe | Robin Allison |
| Frederick Levitan | Al Simon |
| Coles Marsh | Kathy B. Smith |
| Russ Dwyer | Edric McSween |
| John Ferman | John Bush |
| Thornell T. Jones | Christopher Parlin |
| Steve Kling | Robert Nickel |
| Debbie Henninger | Bob Lunsford |

Mike Grant, State Liaison
Mark O'Malley, Director of Boating Services

Reported by: Kelly A. Taylor

1 and that was one of the first ones and Al started,
2 I think, on this committee, I think when it
3 started.

4 THE CHAIR: So a little of our history.
5 Thank you, Marty.

6 MR. GRANT: First of all, for those of
7 you that have been around for a while remember
8 Secretary Torrey Brown, he was DNR secretary, I
9 can't remember for how long, but it seemed like
10 forever. He was there when I first came on board,
11 we lost him on the 20th up in Baltimore and I
12 believe there is a service coming up in the near
13 future. If we get some information we'll get it
14 out to you. Let's do a moment of silence for
15 Torrey and he did a lot of stuff for the bay and he
16 was an awesome person to work for.

17 (Pause in the proceedings.)

18 MR. GRANT: Okay.

19 THE CHAIR: So we can take a look at the
20 agenda, folks. I think we're up to the review of
21 the regulatory requests and proposal and Mike's

1 going to take that over for us and walk us through.

2 MR. GRANT: I'll do my best. Couple of
3 things for any of our guests that will be speaking,
4 please speak your name loud and clearly and if it
5 is a long name please spell it for our stenographer
6 as she is recording anything. Put your phones in
7 stun or off.

8 Our first order of business is our
9 JetPack vessels. I can tell you that over the past
10 couple of months boating, NRP, friends from Ocean
11 City, the livery operators, have spent lots of
12 hours going through these proposed regulations for
13 these new devices. I don't know what version we're
14 on right now, probably about 80 of the regs, but
15 we're still working at it. They will be introduced
16 to you today for your review and your
17 recommendations. We hope we will have comments
18 from NRP. Ann and Julie are going to run this one
19 down and thankfully our request -- we met with our
20 friends down in Ocean City, we asked them to take
21 the time to bring their units down to us today and

1 they did, so we'll have a little time to walk out
2 there and take a look at them. You can't operate
3 them, they don't work real well in the parking lot,
4 but we'll get a chance to look at them and they
5 will have some nice things to say about them.

6 Without further ado, Julie and Ann and
7 NRP can jump in when it's appropriate.

8 MS. BROWN: Very good. Mike, appreciate
9 it, hi, everyone, I believe most of you remember at
10 one of the last meetings, I believe it was the crab
11 feast at Kent Island, I basically brought up the
12 topic of the hydro JetPacks. Is anybody completely
13 unfamiliar with what I'm talking about? The little
14 space odyssey JetPack, airborne, however you want
15 to call it. Right now the Coast Guard is
16 categorizing them as a hydro JetPack vessel, so the
17 folks that you see sitting over here came to, to
18 the meeting today to basically help with some
19 insight on the various crafts. There are three
20 different types right now that are out there on the
21 market. We have some folks from the JetLev which

1 is Alex Vonbussenius and Matt Fram (phonetic) over
2 here, and then next to him is Sean Crosariol, I
3 said I was going to butcher it, and he's using the
4 Jetovator, and then Justin Wood and Samantha Wood,
5 I'm sorry, Samantha Suleski.

6 (Discussion held off the record.)

7 MS. BROWN: Are from Chesapeake
8 Flyboarding and they have their companies right now
9 down in Ocean City and these regulations came about
10 to assist them with what they need to be doing to
11 keep everyone safe operating these new types of
12 vessels on the waterway. They haven't completely
13 over inundated us in Ocean City really right now,
14 these are the three that we have seen out there in
15 Ocean City, but we're assuming that at some point
16 it could become a bigger phenomena out on the water
17 and if so we want to be ready and ahead of the
18 game. We have been formulating these regulations
19 and want to say a great big thank you to Ann
20 Williams for all of the work she's been doing in
21 regards to setting up the regulations and our shop

1 with Natural Resources Police working together as a
2 unit and coming together and trying to figure out
3 what exactly we can do to make these things operate
4 safely on the bay. So without further ado Ann is
5 going to go into the further discussion of the
6 actual regulation.

7 MR. GRANT: Before you get started, you
8 have a very thick pack with nine attachments,
9 actually, there is the 10th one you add in the end,
10 if you can't follow along, but at least you have
11 something to reference and this is all Ann's work,
12 so thank goodness. One of the attachments I
13 believe is number -- let's see it's the last one
14 that's not numbered, it's memorandum U.S. Coast
15 Guard, last page has pictures of these items, of
16 these units, for your reference.

17 MS. WILLIAMS: So to bring you up to
18 speed, we were asked to look at the Jetlevs because
19 they are, the JetPacks, we'll call them JetPacks to
20 try to keep the terminology the same for right now,
21 we were asked to look at them because they are

1 renting them and they are in the industry now in
2 Ocean City and because of their nature they really
3 weren't represented well in our regulation and so
4 NRP and the enforcement side did not know what to
5 do and what not to do so we met together with
6 enforcement and staff and legal and lots of people
7 throughout the last couple of months and we talked
8 about what we could do or not do. The proposal is
9 to do something this session, I mean this boating
10 season, and if we were to do that it would be in
11 the nature of an emergency regulation so what we're
12 proposing is the following and we'll go through it
13 a little bit today. It would go into effect and I
14 believe for 180 days if it is signed, if it goes,
15 and I'm going to say if because nobody knows what's
16 going to happen, but if it takes that path and
17 becomes an emergency regulation it would only be in
18 effect for 180 days. In that 180 days it would
19 then fall back to the Boat Act and the rest of the
20 state to do the normal hearings and reviews and
21 everything to make it a formal, permanent

1 regulation, so the emergency would be just to get
2 us up in operations for this boating season.

3 In your packets the first thing was the
4 little bit of background and then we went through
5 our current regulations that we have, there are two
6 right now, it would be the 080408 livery, and
7 081802 PWC, neither one of them would address the
8 specific JetLev in the way it needed to be
9 addressed because it operates a little bit
10 differently. When we first started this exercise
11 we tried just to amend the word JetPack and say PWC
12 and JetPack, it doesn't work. We have met with the
13 industry and they came up with some more
14 suggestions on how to make it work with what they
15 needed to do and what we needed to do and then
16 there was a suggestion from the livery operations
17 to just do PWC and livery. Well, it makes all of
18 these concatenated sentences, by the time we got
19 done we weren't sure what it was, so when the great
20 minds got together at DNR they decided the most
21 clean and efficient was to change the PWC and

1 change the livery regulations and then create a
2 Jetpack regulation because currently if you look at
3 our current regulation inside of the PWC there is
4 some statements about what you do if you're a
5 livery. In particular, you guys might have called
6 it the livery exclusion zone that was put into
7 Ocean City a couple of years ago. Well, it's only
8 in the PWC, not in the livery operations, we want
9 that to be part of the JetLev, so we either have to
10 duplicate things two or three times, so the
11 consensus was to take all of the livery language
12 and put it in the livery regulation, keep the PWC,
13 whether you're renting them or owning them or
14 buying one on the street; however, you get in the
15 PWC, all of the rules in the PWC will be yours and
16 at the very top put this statement that would say
17 if you're leasing them, renting them, borrowing
18 them for any means whatsoever, you must also follow
19 the livery rules so now we've pulled all of the
20 livery language into the livery regulation and then
21 created a JetPack regulation. Seeing you all read

1 all of the PWC and livery language, I'm not going
2 to go a whole lot into those two regulations, we're
3 going to go straight to the Jetpack and how it
4 effects it and then we'll come to the livery
5 because there's some particular livery things on
6 the Jetpack. Does that make sense?

7 THE CHAIR: Is that okay, folks?

8 MS. WILLIAMS: So then what you want to
9 look at now would be title 081840 Jetpack new, that
10 would be the piece of paper that you want to be
11 looking at and I don't know what it's numbered in
12 your --

13 MR. GRANT: 7

14 MS. HENNINGER: 9.

15 MR. GRANT: 18040.

16 AUDIENCE PARTICIPANT: Do you have
17 copies of that that we can have?

18 MR. GRANT: Sorry, I didn't, I
19 apologize.

20 (Discussion held off the record.)

21 MS. WILLIAMS: We're on Jetpack vessels.

1 If you look at it we tried as much as possible to
2 parallel it to the PWC, because PWC regulation has
3 been out there and works, so we created a scope and
4 in it we've now added that D, which will be added
5 to the PWC, that says all owners, operators,
6 lessees, renters, riders or anyone given permission
7 to operate a Jetpack will follow all of the
8 regulations below. Additionally, anyone that
9 leases, rents or receives consideration for
10 personal watercraft must follow all of the
11 applicable regulations in COMAR. Where it says
12 personal watercraft it's going to be changed to
13 Jetpack because it got copied from the PCW one,
14 that will be reworded to say if you get
15 consideration for a Jetpack you must also follow
16 livery operations. So now this will be anyone who
17 gets a Jetpack will have to follow this set of
18 regulations. The purpose, of course, is for
19 safety. Again, that section is just straight out
20 of the PWC and we didn't change that at all, we
21 just brought it over to the Jetpack.

1 The definitions is where it gets the
2 most probably detailed and unique. At this point
3 in time the Coast Guard has made an exception for
4 the JetLev as a vessel exception. A vessel needs
5 to have on it a sticker that says how many people
6 can be on board. A JetLev vessel, the actual motor
7 of the JetLev carries no people, so they got a
8 vessel exception not to have that sticker
9 requirement on it, by doing that and by all
10 conversations with the Coast Guard they're looking
11 at the JetPack devices as a vessel, they even call
12 them hydro JetPack vessels, so we in the state of
13 Maryland until the Coast Guard has made a different
14 determination or determined them to be a vessel and
15 not a waterski or an add-on or something separate
16 so if you're in the air with a water powered device
17 you are a vessel.

18 The personal watercraft is just the
19 normal definition of a personal watercraft.

20 The JetPack vessel refers to a system
21 whereby a jet propelled device is attached via a

1 high pressure water hose to a boat unit that
2 contains a jet pump. The boat unit intakes water
3 and pumps it through the high pressure water hose
4 to the jet propelled device causing it to elevate
5 from the surface of the water. We tried to make
6 that as generic as possible because as this
7 industry is developing they are finding more and
8 more ways to hook things to the end of the hose and
9 more and more ways to make the pump on this side so
10 we tried to say anything that uses water to push
11 you in the air is described, and I think unless you
12 guys have some changes to that. The boat unit
13 refers to the portion of the JetPack that contains
14 the jet pump and water intake valve, the boat unit
15 includes a separately registered personal
16 watercraft that is attached to the jet propelled
17 device by the high pressure water hose or a
18 streamlined hull consisting of an engine and water
19 pump that is connected to the jet propelled device
20 by a high pressure water hose. The hull is not
21 required to have seating for an operator or

1 passenger. We took in account whether you do a
2 vacuum cleaner type of pump or whether you do a jet
3 ski, so either one or all in this department is us.
4 Jet propelled device referring to the portion of
5 the JetPacked vessel where the rider is seated or
6 standing including but not limited to jet propelled
7 boards, JetPacks and water bikes. So if they come
8 up with a kite that they tie people too we left it
9 open that we don't have to go back to regulation.
10 Operate is to navigate or otherwise use a vessel
11 and move or support a person in the water. The
12 operator is the person that controls the thrust of
13 the jet propulsion device. The rider is the person
14 actually on the jet propelled device. The observer
15 means a person other than the rider that is
16 responsible for the safety of the rider and all
17 equipment involved in the JetPack vessel operation.
18 A rescue vessel means a fully navigable vessel
19 sufficient to carry all of the people involved in
20 the JetPack vessel activity. This is going to be
21 really important because when the jet skis have

1 this huge hose hooked on them and they're flying in
2 the air it's going to be up to the operators to
3 make sure that that vessel can move to be
4 considered its rescue vessel. If it can't, then
5 they have to have a second vessel available to
6 them, and the renter people all know and understand
7 that, because you can't be expected if that person
8 gets hit to jump on the vessel and drop the hose
9 and then drive to shore quickly and that kind of
10 thing so we're requiring them to have a separate
11 vessel for emergencies. Each vessel, rescue and
12 JetPack, has an international orange flag a minimum
13 of 12 by 12 in size mounted on a pole that's at
14 least 24 inches above the water. The flag must be
15 visible and remain visible until the rider is
16 safely secured on the rescue vessel and out of the
17 jet propelled device. I forgot to bring my visual
18 display. We searched online and on the west coast
19 it's required for all waterski people, so you can
20 get them at any boat store, they range from, what,
21 seven dollars to 22 dollars, you can get them with

1 suction cups, they will stick on the device, you
2 can get handheld so it's not egregious to ask
3 people to get an orange flag and we're talking
4 about putting them both on the pack and person so
5 when a boater comes up they can see these two are
6 together and there's a hose between them so that
7 people are not unfamiliar with that there is
8 attachment between the two devices.

9 MR. JONES: Where is that in here?

10 MS. WILLIAMS: I'm on F, where it says
11 each vessel.

12 G, all JetPack vessels must be
13 registered in accordance with COMAR. So even the
14 JetLev is going to have to have a boat registration
15 number. It's going to have to be a registered
16 vessel. Even though right now licensing as we're
17 going to have to work out how to register them.
18 Jet pack vessel operator, JetPack vessels are
19 operating in two distinct manners, traveling as a
20 vessel and flying out of the water. For the
21 purpose of this regulation each type of operation

1 are treated differently. The reason this came into
2 being is because if these vessels are actually
3 determined to be a vessel by the U.S. Coast Guard
4 limiting their travel when they're acting as a
5 vessels under bridges, next to piers, and other
6 things is different than when they are flying and
7 jumping up and down and having a great time so we
8 tried to break those two activities apart so that
9 we can write regulations to give them permission to
10 act as a vessel when necessary and then when they
11 are renting and doing this for better word playing
12 with the JetLev that are more strict rules are
13 going to fall into that play. So traveling as a
14 vessel for normal boating activities from one place
15 to another in open waters within a hundred foot
16 clearance in all directions including vertically in
17 at least six foot of water you may fly the JetPack
18 vessel using all normal boating cautions. So if
19 you're out in the open water and in a channel you
20 can fly, you can do whatever you want. It's only
21 when you're not in those open places that this

1 becomes an issue. In less than six foot of water,
2 any speed zone or within a hundred feet of any
3 object the device and rider must maintain contact
4 with the water and obey all speed zones except when
5 required to maintain speed in a crossing or
6 overtaking situation pursuant to federal law and
7 international nvigatonal rules. That's what we put
8 in the PWC's that they have to follow, you know,
9 rules except for passing and such.

10 Now, when they're flying out of the
11 water in a more recreational activity similar to
12 waterskiing you must at all times maintain a
13 hundred foot safety zone in all directions
14 including vertical, bridges, structures, shores,
15 wharfs, piers, vessels or people in the water. The
16 only exception is the boat unit and the operator.
17 That's going to come into play when we talk about
18 how they work a little bit, because of that boat
19 operator when you're sitting on the jet ski and
20 you're doing the thrust for the guy in the air you
21 can only be within 40 feet, the hose is only 40

1 feet, so we can't prohibit them from being in the
2 hundred foot circle. With the JetLev when they're
3 doing with a remote control they're sitting on a
4 separate boat and again they're controlling that
5 and they have to be within 40 feet for the control
6 to work so again they have to be within that
7 hundred foot circle. They also must stay out of
8 navigational channels, state and federal, marked
9 and unmarked channels or properly identified
10 including six knot Saturday, Sunday and holidays
11 and minimum wake zone, so to be in the flying state
12 you can never do it in a speed zone, you can never
13 do it near a bridge or pier, you can never do it in
14 a place that didn't give you all of that comfort of
15 that hundred foot buffer zone if you want to fly
16 and jump up and down. So everybody with me?

17 In 06, there is a special condition that
18 you can't drive in a porpoise like motion, in
19 particular, I believe it's the Flyboard has a
20 tendency to go down and come up -- I'm sorry, I
21 missed the porpoise definition, I must have skipped

1 it going down. Let's back up, let's go up to 13,
2 somehow I jumped ahead of myself. Number 13 is a
3 porpoise like motion which means the intentional
4 operation of a jet propelled under the surface of
5 the water for a lateral distance for more than two
6 feet and then resurfacing. If you looked at the
7 video they have a tendency to do this (indicating)
8 and go down the river and what's happening is
9 they're going underwater and then popping up and
10 everybody on the review board thought they had deep
11 enough water to do that freely and not impact
12 themselves or other things and be out in the open
13 water so they could porpoise like a dolphin and our
14 interpretation was they need to be in 25 feet of
15 water to do that porpoising type of stuff. All of
16 these devices we would like to think as soon as you
17 jet strapped in you jump up in the air and you play
18 and have fun but really you jump and fall and jump
19 and fall, that's not porpoising, that's more or
20 less falling. You're intentionally going under the
21 water two feet and coming back up, you're just

1 falling. So again the officers will be looking at
2 this under a safety thing. If get too egregious
3 with your falls and start coming up and popping up
4 between boats you are breaking the porpoising
5 rules, they're going to be looking at that.

6 AUDIENCE PARTICIPANT: Another thing,
7 but I think the only way they can porpoise on any
8 of our crafts is once they're at the level of the
9 water they, we allow them to direct the jet and
10 then we give them the power to go under, so other
11 than that there will never be a situation.

12 MS. WILLIAMS: Ideally as long as
13 they're rented you're right, but we realize as soon
14 as you rent them I'm going to buy one and you're
15 not controlling it.

16 AUDIENCE PARTICIPANT: You're right.

17 MS. WILLIAMS: And this regulation is if
18 I bought it myself. You guys will take care of
19 that and we're going to address that in the livery
20 operators, but those of us that like the water and
21 go out and buy one of these will have to follow

1 that same rule.

2 (Discussion held off the record.)

3 THE CHAIR: You were on 13.

4 MS. WILLIAMS: I was on 13. Did I go
5 past half of the descriptions?

6 THE CHAIR: You did.

7 (Discussion held off the record.)

8 THE CHAIR: Feel free to go back to
9 helmet and then go on and do whatever you want,
10 number 14.

11 MS. WILLIAMS: And to confuse you even
12 more -- thank you -- you should have said where did
13 you go. I guess I didn't do operator, right, the
14 one that controls it. I didn't do rider, the
15 person in it, the observer means the person.
16 Rescue vessel -- I went from rescue all of the way
17 down, wow. The owner is a person that registers
18 the JetPack so and regulations and things all
19 affect the person that registers that so that would
20 be important. We did porpoise. And then a helmet,
21 when we looked at helmets there are water safety

1 helmets, they're not U.S. Coast Guard approved, but
2 in particular they're ones that are regulated for
3 water use. We're not so sure a football or a
4 motorcycle helmet would work so we're putting the
5 water use on it, because we're afraid if you allow
6 any helmet and it gets full of water you might be
7 causing more problem than good so we're using any
8 water helmet and they're out there and stamped and
9 all approved.

10 So we'll start at 5A, the person may not
11 lease, rent or hire, operate, give permission to
12 operate a Jetpack in the waters of the state in a
13 reckless or negligent manner, unless the observer,
14 operator and rider are 16 years of age or older.
15 You have to be 16 like a PWC. Unless an observer
16 is present within 150 feet to 300 feet. Now, we
17 didn't want the observer in that hundred foot
18 circle because the few incidences that you can see
19 on the You Tube of accidents is usually that person
20 gets up and losses control and hits either the
21 person right next to them or whatever so we wanted

1 the rescue boat to be close enough to watch it all
2 but not to be hit if something were to go awry if
3 the person lost control so they're in that comfort
4 zone of close enough to help.

5 The rescue vessel must meet the
6 requirements for a vessel and operate, the operator
7 is on a rescue vessel which is navigable, unless
8 the rider is wearing a helmet and a high impact
9 life jacket, Coast Guard approved, so they got have
10 to a helmet and the person in it has got to have a
11 helmet and life jacket. You can't operate it in
12 any water with a depth of less than six feet. You
13 can't operate it at night. You can't operate it
14 unless it's equipped with an engine cutoff switch
15 that can be controlled by the operator. So that's
16 kind of like a PWC in all aspects. A person may
17 not act as an observer, rider or operator or give
18 permission to operate or observe a JetPack vessel
19 on the waters of the state if they are under the
20 influence of alcohol. I don't have to go through
21 that one. The rider is prohibited from picking up

1 any other person or using a tandem harness to
2 include a second rider. At this time we're going
3 to limit it to a single rider. You'll see on the
4 videos where they go pick up people on shore, they
5 have tandem harnesses where two people can ride, we
6 felt that for right now that we have enough
7 concerns about a single person and we'll approach
8 the others as this matures over time. A person may
9 not operate or give permission to operate a JetPack
10 vessel on the waters of the state in a porpoise
11 like motion except as provided in COMAR, so that's
12 where all of the JetPack people can't do that
13 porpoising unless they're in 25 foot of water, and
14 we went over that. A JetPack vessel operator,
15 observer or rider born after the July 1, '72 shall
16 carry their boater safety course, so they have to
17 take a boater safety course also. Each vessel,
18 rescue and JetPack, has to have the international
19 flag, that's where I picked up. So I went
20 backwards and went forward. You want to go through
21 them again or stop here?

1 So again, we kind of looked at how to
2 operate this in a way that made it safe and that's
3 just if anyone operates it. The boat has to be
4 registered, in special conditions that they have to
5 be registered and have to have a hull
6 identification, so that wouldn't be any surprise to
7 anybody. So they're registered. So as far as how
8 the JetPack itself is going to be regulated is
9 there any questions or any --

10 MR. NICKEL: I have a question as far as
11 the rider, can they have a temporary boater?

12 MS. WILLIAMS: Only if they work in the
13 livery and then we're going to reach that in the
14 livery, so if the livery operators --

15 MR. NICKEL: If it's the operator and I
16 go and rent one from the folks?

17 MS. WILLIAMS: They can do the class and
18 give you a temporary one, yep, if they're in a
19 livery contract with Julie, but if they're not they
20 can't.

21 AUDIENCE PARTICIPANT: So that 12 by 12

1 inch orange flag, does that have to be on the
2 rider?

3 MS. WILLIAMS: Yeah.

4 AUDIENCE PARTICIPANT: So can it be on
5 the power unit and not --

6 AUDIENCE PARTICIPANT: Can it be on the
7 skier -- how would we attach it to the actual
8 person?

9 MS. WILLIAMS: You're going to have to
10 attach it to the pack or -- the whole thing is when
11 people were talking about this is how do they know
12 where the hose is, if the orange thing is here and
13 the guy's here, all of the boaters are going to aim
14 for you.

15 AUDIENCE PARTICIPANT: Well, can we do
16 like we do on the jet ski rental industry, put
17 orange vests on the person?

18 MS. WILLIAMS: Perfect, 12 by 12.
19 People know what's there, because when this starts
20 coming up and going out in those bays the first
21 thing a boater is going do is go what is that and

1 when they see the two hopefully they will be able
2 to say oh, they're together. I'm not going to try
3 to cut between them, hopefully.

4 MS. ALLISON: Is there any hose color
5 requirement that we couldn't connect them together?

6 AUDIENCE PARTICIPANT: Mine is bright
7 yellow, but --

8 AUDIENCE PARTICIPANT: Ours is white.

9 AUDIENCE PARTICIPANT: Yeah, ours is
10 white.

11 AUDIENCE PARTICIPANT: I got a lot the
12 different colors.

13 AUDIENCE PARTICIPANT: It says, I think,
14 mine says the name of the company on it too.

15 MS. ALLISON: I didn't know if there was
16 any requirement that, you know, fluorescent
17 something or another.

18 AUDIENCE PARTICIPANT: It's kind of like
19 company, Kawasaki is green and my company is
20 yellow. You're green and I think you're red.

21 MR. WRIGHT: Part the the reason for

1 having the flag on there is for the officers, that
2 the pump unit and the person are there together, so
3 people trying to, you know, the rescue vessel, if
4 there was an association between the cluster of
5 people and if other people came in and were trying
6 to, you know, so that they can sort of tell who was
7 supposed to be there and who wasn't.

8 MS. WILLIAMS: Brain dead. Let me
9 reiterate that for a minute, I said person in the
10 air, it says rescue person and pump, boat unit.
11 It's the rescue vessel because he's the one that's
12 somewhere out watching and the boat unit, the
13 orange jet thing, the orange jacket would be
14 excellent also but what the regulation says is
15 rescue and boat, right?

16 MR. PARLIN: Yeah, each vessel, rescue
17 and JetPack.

18 MS. WILLIAMS: So it's the rescue that's
19 in the hundred foot circle and the JetPack,
20 wherever it is, will have the orange flag so when
21 the officers come and you got 20 boats sitting

1 around and watching and somebody's in the water
2 they say why is that rescue boat not helping that
3 person because he's got the orange flag. That's
4 what it was, I'm sorry.

5 MR. GRANT: Quick note, please, a
6 reminder if you don't have a name tag in front of
7 you and you want to speak, please, Joe bag of
8 doughnuts, spell your name for the stenographer and
9 speak up, she has to get this on the record.

10 THE CHAIR: I would like to let Ann
11 finish and then the NRP and our room and membership
12 talk and then I'm going to ask the folks to come to
13 visit to their their thoughts with us, okay?

14 AUDIENCE PARTICIPANT: So wait?

15 THE CHAIR: Wait, if that's okay.

16 MR. GRANT: We want an opportunity to go
17 outside as well to let these folks --

18 AUDIENCE PARTICIPANT: We're bringing it
19 in.

20 THE CHAIR: So can I go back to this
21 question about the rescue vessel and the JetPack,

1 the machine in the water.

2 MS. WILLIAMS: Right, will have an
3 orange flag.

4 THE CHAIR: Do you have more you would
5 like to share with us right now?

6 MS. WILLIAMS: You want to hear the
7 livery portion, this is what everybody does and you
8 want what they --

9 THE CHAIR: Let's do the livery portion.

10 MS. WILLIAMS: So that would be the new
11 080408, the number's kind of like up in the corner
12 here.

13 THE CHAIR: Number 1, folks.

14 MS. WILLIAMS: Number 8, page, it would
15 be page 8 in your attachments. Number 1 is the
16 original one and page 8 is the replacement one.
17 Okay.

18 THE CHAIR: Yeah.

19 MS. WILLIAMS: I'll try to stay in line.

20 MS. BROWN: If anybody has any questions
21 as we go along, I know there is a lot of different

1 types of these, the three different styles and
2 going back and forth and talking about a drone and
3 a pack and a board and all of that, the folks that
4 have come from the actual industry have -- Alex is
5 actually going to go out and bring in one of the
6 JetPacks to give you a visual of what one of those
7 particular units look like, so feel free to chime
8 in if you feel like you're confused as to who's
9 going where and what and when, so that's why we
10 have the folks who came in from the industry.

11 THE CHAIR: You know, I thought that the
12 idea of having the person up in the air has some
13 orange on too was a really good idea.

14 AUDIENCE PARTICIPANT: We do that,
15 we're going to do that.

16 THE CHAIR: You're very thoughtful,
17 maybe everybody is not.

18 MS. WILLIAMS: So we'll add it to that
19 orange flag section that the rider has to have an
20 orange vest.

21 AUDIENCE PARTICIPANT: We do that at jet

1 ski rental.

2 MS. WILLIAMS: For the Joe guy that buys
3 it, he's got to have an orange vest.

4 MS. BROWN: I think that's an excellent
5 idea.

6 THE CHAIR: A vest or flag attached to
7 the JetPack, whatever, somehow to show that these
8 two things are connected and that's a great idea.

9 MS. BROWN: The great thing about the
10 livery side of it, all of these folks over here are
11 on the above and beyond being safe for the folks
12 riding so they're taking all of the extra
13 precautions and we're just adding into what we're
14 afraid that the general public are going to do with
15 it so --

16 THE CHAIR: We get it. We are the
17 general public.

18 MS. BROWN: Yes.

19 AUDIENCE PARTICIPANT: I'm sorry, I'll
20 wait.

21 THE CHAIR: Go ahead.

1 AUDIENCE PARTICIPANT: I want to say,
2 Mr. Jones and Mr. Bush, you're in the Coast Guard,
3 and I'm going to require all of my guys to be guide
4 certified because we use the jet skis, to go to
5 Julie, I did it myself and got my guide's card,
6 they won't -- my name is Sean Crosariol -- as far
7 as Coast Guard is concerned is that sufficient
8 enough to, training or class at least my guys
9 coming to work --

10 MS. WILLIAMS: We're going to go over
11 that in a minute, Sean, and it's really not
12 something that the state of Maryland can make a
13 statement on. You're going to hear that from all
14 of us, the U.S. Coast Guard restriction on
15 requiring them to be a charter boat, to requiring
16 them -- what's the correct word?

17 MS. BROWN: Captain.

18 MS. WILLIAMS: -- isn't ours so we're
19 going to talk about that when it's in the jet
20 livery operations so we're talk about it there,
21 that isn't Maryland's, that's a Coast Guard

1 determination, and Maryland doesn't do it and I
2 don't believe that any Coast Guard official here
3 can speak officially.

4 AUDIENCE PARTICIPANT: That's not where
5 I was going, so we don't have guys on the water
6 that have no experience --

7 THE CHAIR: We're going to go back to
8 our other plan. Ann is going to talk and then
9 we're going to have NRP and then the committee. If
10 you need clarifying ask Ann and then we're going to
11 ask all of you to chime in. So go ahead, Ann.

12 MS. WILLIAMS: Let's go through the
13 livery regulation. It didn't change a whole lot.
14 A was already on record, the record is already on
15 there. It went to, the PWC was exactly the same.
16 B, a personal watercraft livery owner, agent or
17 employee may not lease or rent personal watercraft
18 unless 16 has always been there. C, an operator of
19 the personal watercraft rented from the livery
20 operation is exempt from the requirement of the
21 natural resource article has always been there,

1 these are going to be worded to the point because
2 it talks a little bit about the PWCs, they're going
3 to be neutrally written so it will be covered for
4 PWC and JetLev because the livery is now going to
5 cover both of those units so now it talks about the
6 PWC can take the boating course, so can the Jetlevs
7 is the goal of this section. In order to comply
8 with this the JetPack in addition the regulation
9 of, one, the JetPack livery operators shall
10 promptly display -- exactly like the PWC -- the
11 regulations that we're talking about will be
12 supplied to them and we have to display them, they
13 will have to tell them about all of the laws that
14 we just talked about. They will have to have
15 inside of their rental contract within 30 days of
16 the regulation our language inside of their rental
17 contract and it's exactly the same as the PWC
18 regulation says. And then again it goes into the
19 age restriction that they have to be 16, you have
20 to take a boater registration course. Both PWC
21 operators and JetPack operators can take the class

1 and get the exemption if they run a contract with
2 Julie. So all of the rental people, there is a lot
3 of PWC renters out there, Julie's in relationship
4 with a bunch of them, but if one came up that
5 wasn't in the relationship, all of the renters
6 would have to have the PWC card and it's working
7 with us and following these extra set of rules gets
8 you a chance to do that test and do the temporary
9 registration and take the boating course.

10 MS. BROWN: Just to clarify, not the PWC
11 card, boating safety education card, just to
12 clarify.

13 MS. WILLIAMS: I'm sorry, yeah, boating
14 safety card. So we added the JetPack to be exactly
15 like a PWC, that would be E, the JetPack livery
16 operations. The rescue vessel used in the livery
17 operation, we just talked about that flag that they
18 had to do it in person. A person may not operate
19 or give permission to operate on the waters of the
20 state unless the rider is trained in the use of the
21 JetPack vessel by the manufacturer of the vessel or

1 it's authorized representative. I think that's
2 what you were talking about in the class, the
3 number 2, a person may not operate or give
4 permission to operate a JetPack vessel on the
5 waters of the state unless the rider is trained
6 properly, proper use of the JetPack vessel by the
7 manufacturer or the vessel's authorized
8 representative. Whether or not you give these
9 classes, would that work, and it's sort of like
10 your PWC, it's going to be more on your in-house
11 side.

12 AUDIENCE PARTICIPANT: I was talking
13 about --

14 MS. WILLIAMS: Pardon me?

15 AUDIENCE PARTICIPANT: I was making like
16 that the guys that work for me they have to pass a
17 certain level of test with Julie.

18 MS. WILLIAMS: That's what that says.

19 THE CHAIR: Ann, the way we operate is
20 committee is first and you talk to us, and then we,
21 and we talk to you and then we ask NRP to talk to

1 us about their thoughts and concerns and then we
2 ask, so if you could follow that approach it would
3 be wonderful.

4 MS. WILLIAMS: If the livery owner or
5 the agent or an employee operates a JetPack vessel
6 he or she shall be licensed by the United States
7 Coast Guard as an operator of an uninspected
8 passenger vessel as defined in COMAR. Because it
9 is a vessel and the operator who controls the
10 thrust of the vessel is a paid person -- in Arizona
11 and Florida it's already, it's already written in
12 the Coast Guard documents -- they must be a Coast
13 Guard captain. District five -- right, we are
14 here -- is coming up with their documents as we
15 speak. It is not up on the U.S. Coast Guard
16 webpage that a JetPack is a vessel yet. They're
17 not listed in the vessel categories. As it's
18 maturing and developing so we are letting everyone
19 know that the general consensus that you are
20 running a rented boat and therefore you are
21 responsible for the lives of those people by

1 running that thrust device and if the Coast Guard
2 says you have to to be a captain you have to be a
3 captain, that's why that is in there. If the Coast
4 Guard determines they don't have to be a captain,
5 then they don't have to be. But the determination
6 is if it looks like a duck and it is duck -- I
7 don't know, some Coast Guard guy keeps quoting me
8 that -- if it looks like a vessel, it is a vessel,
9 you're hired to run the vessel and therefore you're
10 a captain and so right now we're keeping it and
11 letting everybody know that that's the Coast Guard
12 direction we're getting that you have to be a
13 captain. A personal watercraft, PWC, or JetPack
14 vessel owned or leased by a livery vessel in
15 Worcester County may not operate it. So we added
16 the JetPacks to the exclusion zone so when they do
17 the least livery operators thing they won't be
18 allowed to go into the canal like they were with
19 the jet, PWC, so we're not going to let them go way
20 up into the areas that people didn't want them
21 before so we brought that exclusion in. And then

1 of course the penalty and fines statement. There
2 were lots of discussions about exceptions, one of
3 the devices brought the attention to us that they
4 sit and the person is most comfortable in shallower
5 water than six feet how would they be able to run
6 the business when tall people won't ever be able to
7 do it if you're most comfortable when you're
8 touching the ground. We've talked about the
9 Natural Resources Police and several people and
10 what we believe the best way to address all of
11 these livery operations is in the livery lease
12 agreement with the state of Maryland so if you have
13 a special condition that you need to be addressed
14 in your business operations you'll work with the
15 NRP and safety ed and your special contract will
16 say what those conditions are and Natural Resources
17 Police will be able to give that per livery
18 operator so that way we don't have to make
19 exceptions for everyone, reason that things come
20 up.

21 As you notice on the JetLev pack there

1 was a thing about except for regattas and parades
2 and whatever. How do you get to do a JetPack show
3 because in Florida they like to do them outside of
4 restaurants and get everybody's attention. Again
5 through that, was it a license or, the contract,
6 the contract with Julie, those special conditions
7 she'll be able to, you know, tell them how to make
8 a safety zone and what we require and they will all
9 be on a one by one, case by case instance with that
10 contract. They won't be everybody can do it, but
11 they will work with them on that.

12 MS. BROWN: May I interject for just a
13 second? I'm not real sure if everyone is familiar
14 with what Ann is referring to as the contract, the
15 boat livery operator's contract and the PWC
16 operator's livery contract; is everyone familiar
17 with that?

18 THE CHAIR: Why don't you tell us a
19 little bit about that?

20 MS. BROWN: There is two contracts. The
21 reason the livery operations, and Bob actually has

1 a copy of the contract if anyone wants to see it,
2 you can actually get a copy there from Bob or pass
3 it around, the reason we established the contract
4 is because as a livery operation you would have to
5 adhere to the Maryland basic boating law, which
6 born after July 1, '72 you have to have a
7 certificate so in order to work with the livery
8 operations we allowed an exemption of that law and
9 to get that exemption you signed a contract with
10 our section that says you need to follow these
11 certain guidelines to be exempt. We understand
12 that when you rent a craft it's usually an hour,
13 maybe two hours. Now, in Deep Creek Lake there is
14 some exceptions with a person that rents a facility
15 for, a condo for a week, they want to have the boat
16 for a week so we have an exception for that clause,
17 which is a 10 day exemption, but for the boats if
18 someone goes in to rent any kind of motorized
19 vessel, they go into the shop and they have to read
20 a vessel safety information sheet that we provide
21 to the livery operations and then once they read

1 that sheet, they sign a temporary certificate and
2 the temporary certificate says I have 10 days to
3 operate this boat as a boating safety educated
4 person and after that point I do not have anything
5 that allows me to say I have a boating safety
6 certificate. They're allowed to get one of those
7 temporaries two times in a season, okay. We rely
8 on the livery operators to check and make sure that
9 these folks aren't coming back five and six times
10 because after you get a temporary the second time
11 we think it might be a good idea for you to take
12 the boating safety course and at that point there
13 are definitely options online and classrooms all
14 over the place for people to get that boating
15 safety card. That is the boat livery contract,
16 okay. The PWC livery contract is just a little bit
17 changed or a little bit different whereas we don't
18 want the PWC renters to actually have a temporary
19 certificate because most of them are renting for an
20 hour and that's it, they're not taking them on, you
21 know, a 10 day trip or whatever for right now,

1 thank goodness, they're not, so we don't issue that
2 temporary certificate to the personal watercraft
3 renters. What they do is they come into the shop,
4 they see posters all along, all throughout the
5 location and they read these posters and then they
6 take a 13 question quiz, which if someone can't
7 pass the 13 question quiz you got to be really
8 scared and run away, because it's pretty basic and
9 easy and they have to pass with only getting one
10 wrong and we leave it up to the livery operators to
11 make sure hen these people get one or more of these
12 questions wrong they say so sorry, you have to come
13 back another day. This is all part of that
14 contract they agreed to, they have to post all of
15 these signs and regulations and things like that
16 and they have a matrix system for violations of the
17 contract. So if they are cited for operating after
18 sunset more than twice we have the ability to take
19 that contract away for two weeks. If there is more
20 violations to the contract we can take it away for
21 a summer. Thankfully, we have not yet had to do

1 that. We have suspended some locations for
2 violating and we've -- it's been no more than maybe
3 a weekend suspension of their contract, but for
4 most livery operations you suspend their business
5 for any period of time and it's going to be a big
6 ouch. So for the most part we have a very good
7 contract relationship between the boat liveries and
8 the PWC liveries so that gives a little bit more
9 insight. If anybody has any questions on that side
10 of it, please feel free to ask me.

11 THE CHAIR: That was very helpful, thank
12 you. Ann, what else have you got with us?

13 MS. WILLIAMS: I think that's it on the
14 regulations, do you guys have any questions?

15 THE CHAIR: Folks from NRP, anybody want
16 to raise anything or share your thoughts?

17 AUDIENCE PARTICIPANT: She's done an
18 outstanding job.

19 AUDIENCE PARTICIPANT: One comment, I
20 did speak with Master Chief La Salle (phonetic) of
21 the Ocean City Coast Guard this morning and he

1 didn't give me any indication that it's in the air
2 as to whether they're going to have to Coast Guard
3 captain's license, you know, he said they
4 definitely will, so if you don't have your licensed
5 captains lined up you all probably ought to get
6 working on that.

7 MS. BROWN: Is that for all rental?

8 AUDIENCE PARTICIPANT: JetLev, yes.

9 MS. WILLIAMS: For any operating --

10 MS. BROWN: Any hydro --

11 MS. WILLIAMS: Any operator, any thrust
12 operator must be a captain.

13 THE CHAIR: Well, let me keep going
14 around here first. Al, did you have something?

15 MR. SIMON: I just wonder if this
16 committee is aware, have seen this in operation and
17 is this applied here to be DNR as far as the no
18 ski, no skiing area, is this involved in --

19 THE CHAIR: That's a good question.
20 What happens in no skiing areas?

21 MS. WILLIAMS: It wasn't specifically

1 stated in the speed zone so we'll just add it under
2 that speed zone restrictions, you got to follow all
3 speed zones, so we can say these operations cannot
4 happen in a no waterski area, because that's
5 what -- I mean that type of activity you don't want
6 in a waterski area, correct?

7 MR. MARSH: No.

8 THE CHAIR: So Al, are you talking about
9 control in the waterski areas, or are you talking
10 about is there someplace in the state where there
11 are no waterskiing areas or waterskiing is banned?

12 MS. WILLIAMS: He's probably talking
13 about the controlled waterski areas.

14 THE CHAIR: Controlled waterski area.

15 MR. SIMON: I guess what I'm getting at
16 is how many people here are familiar with this?

17 THE CHAIR: So we have had a couple of
18 videos, I think, over a couple of meetings about
19 this for the full committee in the last year, I
20 think, when this was first brought --

21 MR. GRANT: Kent Island, yes.

1 THE CHAIR: So we -- yeah, we've talked
2 about this a number of times in the meeting.

3 MR. MARSH: I have observed them in
4 Ocean City, yeah.

5 THE CHAIR: So does somebody feel they
6 need that, did that meet most everybody's needs?

7 MR. KLING: I think we need hands-on
8 experience. I don't believe --

9 MS. BROWN: That would be Steve Kling
10 that said that.

11 MR. LUNSFORD: Put that in the form of a
12 motion.

13 THE CHAIR: In the back, John.

14 MR. PEPE: I noticed under the livery
15 operations they specifically restrict the use of
16 these things in the Atlantic Ocean off of the
17 shores of Ocean City, and I was wondering if they
18 have licensed captains that are near coastal rated
19 how could they limit that or why would they limit
20 it?

21 MS. BROWN: The operation of personal

1 watercraft, rental personal watercraft, is not
2 allowed in the Atlantic Ocean so that is something
3 that we have to address in regards to how the
4 rental operations get out there. As far as we're
5 concerned they're not but with the PWC --

6 MS. WILLIAMS: But if you were not
7 renting it, if you were not a livery --

8 MS. BROWN: If you were not renting it.

9 MS. WILLIAMS: -- and you owned it
10 yourself like some of these guys do and they strap
11 it on and go down the ocean with a sign saying rent
12 me tomorrow, because they're not renting it it's
13 their own personal device they can run it like a
14 vessel as long as their in the speed zone, their
15 feet are in the water and when they're not in the
16 speed zone they can fly it as much as they want.

17 MR. PEPE: Unit that requires a licensed
18 captain to be on board.

19 MS. WILLIAMS: If they're renting to
20 someone on board, so if the guy that has a really
21 cool device rents it to me.

1 THE CHAIR: I guess what John is asking
2 is what was the thinking, the rationale that, that
3 led us to the conclusion that having the least
4 equipment used in the Atlantic Ocean off of the
5 Ocean City with a licensed captain was not a good
6 idea?

7 MS. WILLIAMS: I believe the issue is
8 the canal, that you got to get a jet ski going six
9 miles an hour, with somebody walking on the water
10 at six miles an hour that's a novice, you got a
11 captain running the jet ski, but you got a novice
12 taking those rocks to clear the breakwater to get
13 out to play into the ocean and so as a novice we
14 don't think that that would be a wise thing to do,
15 but as the owner that I'm an expert in doing it and
16 I'm not renting it to anybody, I can run it like a
17 boat and I can take it through the canal, I can go
18 out in the ocean and fly it freely and then take it
19 back through the canal. Does that make sense?

20 MR. PEPE: It makes sense but if you
21 have a licensed captain with a near coastal license

1 you can't limit him and he's the one in charge.

2 MR. PARLIN: I think what this law is
3 under, go back to the contract, these folks are --
4 the operation is under a contract, so you're
5 limiting the operations, the rental, you're not --
6 the captain is limited by the company policy, the
7 company policies are limited by the contract.

8 MR. LUNSFORD: You violate the
9 contract --

10 MS. WILLIAMS: Let's take this one step
11 further, I get one and I own it and I'm not -- I'm
12 a licensed captain and I rent it to you but I don't
13 get Julie's course, I don't get in a contract with
14 her, I don't get into that, I can do it. It's the
15 contract between us in that livery contract the DNR
16 is going to say did you rent it, you're a livery
17 regardless of the contract and they're going to
18 pull it on that side, they're going to say you're a
19 livery and you can't do it.

20 THE CHAIR: Bob, you had something to
21 say.

1 MR. LUNSFORD: I seen the reg where the
2 rider has to wear a PFD and type 5 is on there and
3 type 5 comes in manual and automatic inflation and
4 if you're in the water any length of time you're
5 going to want the manual and you don't want the
6 thing going off and if you're in one of these
7 things and you happen to land in the water and get
8 knocked silly than a manual PFD may not be the best
9 thing, maybe a type 5 isn't appropriate for this
10 type of activity, and maybe that can be discussed.

11 MS. BROWN: That can be addressed in the
12 contract as well.

13 MS. WILLIAMS: We can pull it just from
14 the thing so we can go one through four and just
15 take five off.

16 MR. LUNSFORD: That was a concern that I
17 saw when we went through it.

18 MS. BROWN: When you're cutting and
19 pasting from other regulations.

20 MR. LUNSFORD: Never done that.

21 MS. BROWN: So you pull from other stuff

1 you have a tendency to forget those little nuances
2 so that's why it's great that we're bringing it to
3 you guys to catch those things.

4 THE CHAIR: Steve.

5 MR. KLING: I have a couple of technical
6 questions. In your definition of 04B3 on number 9,
7 you define high pressure hose device causing it to
8 elevate from the surface of the water, you're
9 defining I think that's flawed, you're defining the
10 device by how it's used, I think you probably want
11 capable of causing it to elevate because somebody
12 could say I'm not elevating.

13 MS. BROWN: Where are you, Steve, I'm
14 sorry?

15 MR. KLING: Number 9, 04B3.

16 THE CHAIR: Jetpack vessel.

17 MR. KLING: Chapter 40, 081840, you're
18 defining it. If don't go out of the water, I don't
19 need your definition.

20 MS. WILLIAMS: No problem.

21 MS. BROWN: Absolutely.

1 MR. KLING: It just seems to me you
2 ought to say for reason of clarity that the
3 operator and the rider can be the same person. If
4 I own it --

5 MS. BROWN: Yes, absolutely if you
6 personally own it --

7 MS. WILLIAMS: Which one was that?

8 MR. LUNSFORD: 8 and 9.

9 MR. KLING: 8 and 9 and you just say
10 parenthetically they. For clarification the rider
11 and the operator may be the same person.

12 MS. WILLIAMS: So you want after both of
13 them may be, may be the rider?

14 MR. KLING: Yeah.

15 MR. PARLIN: We were talking earlier,
16 Ramona was asking too, when you take some of the
17 devices that those folks have they don't have a
18 separate operator, the rider is the operator. Just
19 kind of saying that this could be, they can both be
20 the same person.

21 MS. BROWN: They do have the separate

1 operator when it comes to the livery operations so
2 as a livery operation these people aren't going out
3 with the pack all by themselves.

4 MR. KLING: That's your relationship
5 with them, we're talking about this --

6 MS. BROWN: Right, the personal use.

7 MR. KLING. For Charlie idiot with his
8 own.

9 MR. PARLIN: I thought with the livery
10 operators do they all have somebody controlling the
11 thrusts or are --

12 MS. BROWN: It's under contract that
13 they will, that the renter will never have the full
14 ability to operate the thrust, the up.

15 MR. PARLIN: That's in there --

16 MS. BROWN: They're going to be able to
17 go up by someone else's use of the throttle and
18 then they can do this, if they can (indicating).
19 That's the, you know, so they can actually move it
20 around.

21 MR. MARSH: The rider.

1 THE CHAIR: I still like Steve's
2 clarification. I was slightly confused.

3 MS. BROWN: Absolutely.

4 THE CHAIR: If you can.

5 MS. WILLIAMS: I put may be the rider
6 and then may be the operator.

7 MR. KLING: Yeah, that's all.

8 THE CHAIR: Or just the operator or the
9 rider may be the same thing.

10 MR. KLING: My next comment is under the
11 next one, 05, restrictions, 3. I heard your
12 explanation of why you want the observer so far
13 away, but it doesn't make sense to me if this guy
14 has a 30 foot boat.

15 MS. WILLIAMS: The observer is on a
16 separate jet ski.

17 MR. KLING: I think I heard you say you
18 saw some of the videos with the inept operators
19 landed on the observer.

20 MS. WILLIAMS: Not the observer, they
21 landed on the jet ski.

1 MS. WILLIAMS: We got three pieces.

2 MR. KLING: I don't understand, I don't
3 understand why you're keeping the observer so far
4 away.

5 MS. BROWN: You don't want that person
6 who's in the air to come down and either hit the
7 unit or the observer, so you want the observer to
8 be capable of coming in to --

9 MR. KLING: The guy's only going to land
10 30 feet away.

11 THE CHAIR: How long is the hose?

12 MS. BROWN: 30 to 40.

13 AUDIENCE PARTICIPANT: They're all
14 different.

15 MS. BROWN: I see what you're saying
16 now.

17 MR. KLING: I understand your safety
18 concern.

19 MS. BROWN: I see what you're saying,
20 Steve.

21 THE CHAIR: Is the hose length limited

1 for the livery operators and for the owners?

2 MS. BROWN: No.

3 THE CHAIR: It's the same for everybody?

4 MS. BROWN: Absolutely.

5 THE CHAIR: What's the length of the
6 hose?

7 MS. BROWN: Between 30 and 40.

8 MS. WILLIAMS: 30 and 60.

9 THE CHAIR: Does it say that?

10 MS. WILLIAMS: The manufacturers are
11 making them and they're between 30 and 60.

12 THE CHAIR: The manufacturer feels like
13 making one longer that's okay.

14 MS. BROWN: And they need to at that
15 point talk to aviation and because aviation has now
16 got their fingers in on this whole thing.

17 MS. WILLIAMS: If you go above a certain
18 height, that's --

19 MS. BROWN: That's above us. Sorry.

20 THE CHAIR: That was good. So back to
21 Steve's question, if the hose is only 35 or 40 feet

1 long why is the, the rescue vessel so far away?

2 MS. WILLIAMS: In the discussions all of
3 the safety people thought about was they don't want
4 them to cross that hundred foot circle, they want
5 to be able to go up and make sure that you have
6 maintained a hundred foot circle, even your rescue
7 vessel. The 150 to 300 foot was that you're close
8 enough to watch, close enough to go in and help but
9 you're not going to be the first thing that that
10 person hits by accident and that's why they're
11 outside of the comfort zone, but close enough to be
12 there really fast.

13 MS. BROWN: I see what Steve's saying in
14 terms of the hose only being 30 foot so you're not
15 going to fall that far so could we technically
16 shorten that distance for the, for the observer,
17 absolutely.

18 MS. WILLIAMS: So I guess the question
19 is do you want it to be at the hundred foot line
20 because the whole consensus is we want nothing, we
21 want an officer to be able to say that was not a

1 hundred foot safety circle, period, and you can't
2 say the rescue vessel is inside.

3 THE CHAIR: No, nope, not yet. Hang
4 onto that thought. Bob.

5 MR. LUNSFORD: The rescue vessel are
6 they unique to each one and if I'm 300 feet away I
7 can theoretically, you know, in an outboard boat I
8 can be watching three or four of these things or
9 getting --

10 MS. WILLIAMS: I believe on the rescue
11 vessel definition --

12 MR. LUNSFORD: -- or am I dedicating it
13 to one?

14 MS. BROWN: Per unit.

15 MR. LUNSFORD: Okay. Is that spelled
16 out and I missed it?

17 MS. BROWN: You have a rescue vessel
18 paying attention to that --

19 MS. WILLIAMS: The key to that is it
20 fully navigable, sufficient to carry all of the
21 people involved in the JetPack vessel activity. So

1 you have to be able to carry everybody and it
2 should be one on one.

3 MR. LUNSFORD: Suppose I have one that
4 carries 10 people?

5 MS. WILLIAMS: When you're gone who's
6 rescuing the people?

7 THE CHAIR: I don't think -- you're both
8 suggesting the same thing. Bob's saying does this
9 address this point that he's making or does it not?

10 AUDIENCE PARTICIPANT: No, we talked
11 about it at length.

12 MS. WILLIAMS: Let me put it this way,
13 at this moment I can't find it, but my Aleve is not
14 very good today, what I will do is look and point
15 it out to you or we will address because we did
16 want one rescue boat for one rentee.

17 MR. LUNSFORD: I didn't see it.

18 MS. WILLIAMS: It might not be clear
19 because we pulled things back and forth, but we
20 will make sure if it's not in here clearly and --

21 AUDIENCE PARTICIPANT: That was the

1 whole point of orange flag and the discussion --

2 MR. LUNSFORD: Just to tie everybody
3 together.

4 THE CHAIR: Steve.

5 MR. KLING: Two more, actually, two and
6 a half more points. I'm now at 05H2, it just --
7 what you can't do, a hundred feet up in all
8 directions. I think there has been some confusion
9 about whether a mooring ball counts as a thing and
10 I don't think a mooring ball fits in any of these,
11 in any of the categories.

12 MS. WILLIAMS: So you want me to add
13 one? No problem.

14 MR. KLING: If in fact it's a policy,
15 yes.

16 MS. WILLIAMS: I guess would you
17 consider a mooring ball a thing?

18 AUDIENCE PARTICIPANT: We consider it
19 basically anything.

20 MS. WILLIAMS: I'll put it in to make
21 sure that no one's in doubt that you can't do this

1 around a mooring ball. I know the jet skis think
2 they're slalom courses not mooring balls.

3 MR. PARLIN: On this same line, Chip, a
4 quick question, mooring buoy is considered a buoy.

5 AUDIENCE PARTICIPANT: Uh-huh.

6 MR. PARLIN: We put buoy and that way we
7 cover any navigation.

8 MS. WILLIAMS: I'll put mooring ball,
9 buoy, I don't want anyone to ever say the little
10 round ones are not the ones you're talking about,
11 you're only talking about the tall ones.

12 MR. KLING: Yeah, that's other things in
13 the water.

14 MS. WILLIAMS: Not a problem. And then
15 in B, the same, like right down to B, you said
16 identified speed zone. It seems to me that's
17 not -- that's too restrictive. The Severn River,
18 virtually higher Severn River is an identified
19 speed zone and so it ought to be, I think we go
20 from six knots to big speed zones so it seems to be
21 limiting, you know, any identified six knot or

1 minimum wake zone.

2 MS. WILLIAMS: How would I word it so
3 that identified speed zones including -- so I won't
4 put the word including, identified, six knot
5 Saturday, Sunday holiday, minimum wake.

6 MR. KLING: Something like stay in
7 navigation channels or identify six knot or minimum
8 wake zone.

9 MS. WILLIAMS: Okay.

10 MR. KLING: I think that's enough.

11 MS. WILLIAMS: Well, six knots comes in
12 Saturday and Sunday.

13 AUDIENCE PARTICIPANT: What was the
14 question, I didn't --

15 MS. WILLIAMS: In the Severn River there
16 is 25, 35 speed limits and all of these other ones,
17 so in essence because we said stay out of any
18 identified speed zones you could never have this in
19 the Severn River.

20 AUDIENCE PARTICIPANT: I got it.

21 MS. WILLIAMS: That's an easy one to say

1 everything is regulated, correct. So we'll change
2 that to six knots and minimum wakes, okay.

3 MR. KLING: And then my other -- I just,
4 I suspect this is a carryover from the PWC
5 regulations but the notion of telling people they
6 can't go in unmarked channels strikes me as unfair.

7 MS. WILLIAMS: Yeah. Except --

8 MR. KLING: That's a little vague.

9 MS. WILLIAMS: -- except we work for
10 hydrographic operations and we kind of like it.

11 MR. LUNSFORD: Hard to enforce.

12 MS. WILLIAMS: There again that would be
13 up to the officers to say, you know, you're really
14 cutting off this access to this marina by putting
15 your hundred foot safety zone here and you're being
16 negative to your neighbors.

17 MR. KLING: That's the end of my anal
18 comments.

19 THE CHAIR: Thanks, Steve. Chris, did
20 you have anything? Anybody else on the committee?

21 MS. ALLISON: Just one question, is

1 there any description about what the observer boat
2 needs to be?

3 MS. WILLIAMS: Sufficient to handle all
4 of the people and movable, navigable.

5 MS. BROWN: Navigable. It could be a
6 jet ski that has three seats.

7 MS. ALLISON: Is could be a canoe.

8 MS. WILLIAMS: It could be a canoe.

9 AUDIENCE PARTICIPANT: No, we discussed
10 that.

11 MS. WILLIAMS: It's got to be a vessel.

12 MS. BROWN: Motorized.

13 MS. ALLISON: Motorized.

14 MS. WILLIAMS: If you put an electric
15 outboard on the canoe.

16 MR. JONES: Steve discussed about
17 operator and rider, should something in the livery
18 say that?

19 MS. WILLIAMS: Pardon me?

20 MR. JONES: We've discussed 048 and 9
21 and rider could be an operator, operator could be a

1 rider, but that's not the case for a livery.

2 MS. BROWN: That's absolutely not the
3 case for livery and that will be addressed in the
4 contract.

5 MR. JONES: In the contract.

6 MS. WILLIAMS: What you're saying is if
7 I have a livery operator that didn't have a
8 contract is it clear that they can't let them run
9 the thrust and so we will address that in there so
10 we'll make it if you're not in contract with us,
11 you have to do this clause. Okay.

12 THE CHAIR: Okay. Russ, and then we're
13 back to another --

14 MR. DWYER: The thing would a licensed
15 captain -- as a licensed hunting guide, I can't
16 take a party out to a 50 foot offshore without
17 having a captain's license and that on the rescue
18 boat I think you'll have the same thing, the rescue
19 will have to be a captain. Officers can tell me
20 about that, but if they're picking up people
21 they're going to have to be licensed as a captain

1 also.

2 MS. WILLIAMS: I guess the problem there
3 and that will have to be worked out with the Coast
4 Guard again, if the person on the jet ski is the
5 wife of the rentee and not a paid person from the
6 staff they're not being paid anymore so the rescue
7 person could be any boater that's qualified to run
8 the vessel but I'm not being -- I'm not receiving
9 any funds or money so now I'm not a commercial
10 entity, I'm the volunteer type person, so therefore
11 that person could not have to have a Coast Guard
12 license. It's only if I'm being paid to circle
13 around you that I would have to have a Coast Guard
14 license, but you're correct.

15 THE CHAIR: Is that in the livery
16 contract?

17 MS. WILLIAMS: It's in the Coast Guard
18 not us.

19 MS. BROWN: Yeah, it's not affecting us,
20 so that --

21 MR. DWYER: Do you know if there is --

1 MS. BROWN: -- I don't know if the Coast
2 Guard has addressed that. Russ, you just opened
3 another can of worms.

4 THE CHAIR: So let me go back to the
5 question that I think Steve had earlier, which is
6 it says the rescue vessel needs a fully navigable
7 vessel, what does fully navigable mean, does that
8 mean it has an engine, motorized, or doesn't or --

9 AUDIENCE PARTICIPANT: We discussed this
10 very clearly that if you're in Ocean City and the
11 tide's running six or eight knots and you're in a
12 canoe or non-powered boat it wouldn't be fully
13 navigable, so we wanted something that would be
14 appropriate for the area that you're in that would
15 be obvious.

16 THE CHAIR: It can or cannot be
17 motorized depending on the situation?

18 AUDIENCE PARTICIPANT: It's pretty much
19 going to have to be motorized.

20 MS. BROWN: I think it needs to be
21 clarified is what you're saying.

1 THE CHAIR: Yeah.

2 MS. BROWN: Fully navigable motorized
3 vessel.

4 MR. LUNSFORD: Put that someplace in the
5 definition.

6 MR. SIMON: Is there any restriction on
7 time of use?

8 THE CHAIR: Yeah, sunrise to sunset.

9 MR. SIMON: Sunrise to sunset?

10 THE CHAIR: Fred had a question and then
11 back to John.

12 MR. LEVITAN: On 05, restrictions A and
13 1 and 2, can't give permission to operate a vessel
14 in a reckless or negligent manner unless the
15 observer, operator and rider are 16 years or older,
16 16 years or older then you can operate in an --

17 MS. WILLIAMS: I believe you're reading
18 that a little bit out of -- regulatory, it says a
19 person may not lease, hire or rent in a reckless
20 manner, a person may not lease for hire or rent,
21 unless the observer, I don't believe it's

1 concatenated in a reckless manner unless observed,
2 unless present, unless -- it's the other way, I
3 believe it's written properly.

4 MS. BROWN: Legal will have to adjust,
5 that because someone such as Fred --

6 THE CHAIR: Raised it.

7 MS. BROWN: Just pointing out as a
8 little bit of a troublemaker over there.

9 THE CHAIR: John.

10 MR. PEPE: I'm glad that somebody raised
11 this question about the rescue boats because I'm,
12 I'm involved with boat racing activities and we
13 have rescue boats that are required, we have very
14 specific requirements. You don't have to be a
15 licensed captain to run it, but the people on the
16 rescue boats also have to be trained in rescue and
17 recovery. It's kind of assumed that if you're
18 going out there to get somebody that's in trouble,
19 something is happening, and you're not going to be
20 dragging somebody over the side of a boat and
21 bringing them up to shore. Are there going to be

1 any requirements for the people that are running
2 these rescue boats?

3 MS. BROWN: Well, that's, that's opening
4 another can.

5 MR. PEPE: We have to have divers, we
6 have to have EMTs or somebody that's got EMT
7 training, we have to have backboards, people that
8 are, you know, qualified to use all of the
9 equipment that's on the boat. You can, you can get
10 into some very serious situations very quickly.

11 THE CHAIR: Officers, do you have any
12 thoughts on that?

13 AUDIENCE PARTICIPANT: I'll leave that
14 up to the committee here.

15 THE CHAIR: Okay. Conversations,
16 discussion, people.

17 MR. NICKEL: Speaking from a livery,
18 you're stacking some overhead on these guys that
19 are uncontrollable and it's making an enterprise
20 operation, you're putting some pretty firm
21 restrictions on them, if you do that you put them

1 out of business.

2 MR. DWYER: I don't think the same thing
3 he's saying there. When you're waterskiing and you
4 have an observer and the skier, you got to regulate
5 them to have same kind of training, which you don't
6 have. You're not taking them to the hospital,
7 you're only taking them to the shore.

8 MS. WILLIAMS: Just to shore.

9 MS. BROWN: So for waterskiing the
10 observer as a requirement has to be at least 12
11 years of age, so that's the only requirement that's
12 in there.

13 THE CHAIR: Robin.

14 MS. ALLISON: Just following what John
15 was saying, not trying to put more restrictions on
16 the operators, but I believe the Coast Guard
17 requires anybody, and I don't know whether
18 depending if you pay the people in the observer's
19 boat or whether you're going to get them to do it
20 for nothing, but I think if you're picking up
21 people and you're there and you're just watching,

1 you don't have to pay them unless they pick
2 somebody up, and I don't know the rules, but if
3 they pick somebody up and are transporting them
4 technically they're being paid by the livery, if
5 they're being paid.

6 THE CHAIR: Did everybody hear what
7 Chris was saying?

8 MR. PARLIN: I believe that falls under
9 Coast Guard to put that there. As this committee
10 is operating under Maryland and leave it to the
11 Coast Guard.

12 MR. DWYER: DNR is the guy that writes
13 me a ticket.

14 MR. PARLIN: But still that should be
15 required by the Coast Guard.

16 AUDIENCE PARTICIPANT: And the hunting
17 situation there is a section under Maryland -- I
18 don't think it's law or regulation -- where we can
19 do that. I'm not sure if it's in here or not. It
20 was a very good question that you bring up and the
21 captain and I here have been talking, you know,

1 since you brought it up and the two of us don't
2 even agree so it's something that, you know, it's
3 the Coast Guard that it's really their bailiwick so
4 probably if they say that if the rescue boat picks
5 a person up and it's under control of the third
6 person that is licensed and they're okay with it
7 then my guess is we're going to be okay with it.
8 If they're not then we probably won't, but it's a
9 good question that needs to be answered.

10 MS. BROWN: Technically we do have a
11 situation that's already that way if you want to
12 think of it that way with the PWC livery operations
13 we have guides that take the renters out on their
14 ride and basically those guides are out there to
15 babysit and make sure that they're safe. These
16 guides under our contract basically go through a
17 guide certification program which is about a two
18 hour certification program that basically tells the
19 guide what to do in a situation if something does
20 happen but they're not required to be first aid or
21 CPR or anything of that and that's, that's our

1 contract that's right now. So they get a guide
2 certification card that says, you know, they can go
3 out and monitor these people and keep them safe and
4 if a situation does happen, you know, which is very
5 possible then they need to take action on it, but
6 there is nothing that says they're required to have
7 first aid or CPR or any of that.

8 THE CHAIR: Is there any further
9 conversation on John's point where the committee is
10 coming out on that about the observer boat and what
11 kind of requirements or any needed from a safety
12 perspective?

13 MR. KLING: Yeah, I think that's, in
14 almost any activity you look at the risks and then
15 the need for safety and in the powerboat race which
16 is under Coast Guard license I mean you got the
17 possibility of people dying and injured. Now, if
18 we're back here in three years and 17 people have
19 gone smashing down on the power unit and hurt
20 themselves we're going to be in a whole different
21 level of safety and these guys will probably have

1 done a whole lot of stuff to avoid that, but put
2 big rubber things over them, but I think that those
3 requirements in the powerboat race are probably
4 very reasonable and appropriate and they're
5 probably pretty nationwide. I think we're in a far
6 lower risk level, you know. Russ has -- to be a
7 hunting guide you don't need a first aid. To be a
8 fishing guide you need some first aid.

9 MR. DWYER: We really shoot them.

10 MR. KLING: Just drown them. But I
11 think that the requirement are risk related and I
12 don't think there's any reason to look to
13 universality.

14 MR. JONES: I think there should be an
15 age limit on that.

16 MS. WILLIAMS: It is, 16.

17 MR. JONES: Where is that?

18 MS. WILLIAMS: Up in the definition, 16
19 or older. The first very first thing.

20 MS. BROWN: It mirrors the PWC.

21 MS. WILLIAMS: The observer is the

1 rescuer. I thought it said to be -- let me find
2 it.

3 MS. BROWN: I don't think there is an
4 age on the observer.

5 MS. WILLIAMS: It is.

6 THE CHAIR: No. Look under 5A2, a
7 person may not lease, hire or rent, operate or give
8 permission to operate unless the operator is 16
9 years or older. It does not limit the age of
10 observer. It doesn't say that the observer has to
11 be 16, does it?

12 MR. KLING: Yes.

13 MS. WILLIAMS: Unless the observer,
14 operator and rider.

15 MS. BROWN: There is no and/or.

16 THE CHAIR: It's got it, Thorny. Back
17 on the safety issue, Kathy.

18 MS. SMITH: I just needed personal
19 clarification, is there ever a case in which the
20 operator and as you described it the thrust, I
21 guess, the thrust provider is the operator, would

1 they ever be acting as the observer or the rescuer?

2 MS. WILLIAMS: Yes, they could. In the
3 particular, in the particular incidence of the
4 JetLev operator, the one that does not have a
5 person on a jet ski, the pack you're looking at
6 there, it has a power pack in the water, the
7 operator could be sitting on the rescue vessel and
8 he could be the thrust operator and the observer
9 because he could be sitting on the rescue vessel
10 when the person -- I can't do that, I'm not looking
11 over there.

12 AUDIENCE PARTICIPANT: At least for
13 mine, I have a commercial you can see and watch so
14 everyone is on the same page to see what we're
15 talking about, because we're kind of doing a lot of
16 the --

17 MS. WILLIAMS: They've seen your videos.

18 THE CHAIR: We're going to do that.
19 We're going to let them come on and tell us their
20 story and then I want to get back to the safety
21 thing so the committee has come to some place where

1 we're in general agreement. Right. Mike, do you
2 want to bring folks in to talk to us or -- just --

3 MR. GRANT: Whoever wants to start.

4 THE CHAIR: Come on, introduce yourself
5 and come inside.

6 MR. VONBUSSENIUS: Alex Vonbussenius,
7 V-O-N-B-U-S-S-E-N-I-U-S, and I'm representing
8 JetLev and Relentless Water Sports. So first thing
9 I want to do is -- does this have the Internet?

10 MR. GRANT: No.

11 MR. VONBUSSENIUS: That's going to make
12 it difficult. So with the JetPack, I mean first
13 and foremost, it is not an unregulated industry.
14 It is in a sense that DNR it's all new to everybody
15 here and as far as DNR, marine police, I guess you
16 could call it, and Coast Guard, but who is
17 regulating this for at least my particular thing is
18 our insurance company and we do go through an
19 extremely rigorous certification program and it's
20 usually one and a half to two weeks long and it's
21 daunting, I mean you're spending 10 to 12 hours on

1 the water really learning how to train people and
2 become a certified instructor. You know, I have
3 owned this business for about a year and a half now
4 and I got now at this point over 20 units, 15 of
5 them in operation. We have five in Jamaica and in
6 Guatemala, Dominican Republic, some in Miami and
7 they're all over the place and we have flown over
8 10 thousand people and I have never had an incident
9 where we have a death, nothing more than just a
10 couple of bumps and bruises, that's because of the
11 extreme safety precautions that we take with
12 training our people, you know, and getting them
13 certified. I mean everybody has these cards so
14 this is what I was kind of talking to them about, I
15 wanted to make sure that I had -- when they came to
16 me at first and wanted me to come to put something
17 together to write a regulatory type of thing I
18 thought that everybody should have proof of their
19 insurance, first of all, because they are the only
20 ones out there really ensuring that the owners and
21 operators of these businesses were doing things

1 correctly, you know what I mean, and so with that,
2 you know, it's nothing crazy, but it's a card that
3 looks like this, just a certified instructor card,
4 and each operator, each instructor gets one, you
5 know. So that's just, that's something that ties
6 into the whole thing with the captain's license
7 because in all honesty we're not navigating the
8 waterways at all, we're staying within, I guess, a
9 hundred foot circle, you know, if anything, I mean
10 saying that, you know, the customer's the one
11 navigating the water, we're simply just
12 literally -- and if anything it's a lot safer than
13 the jet skis -- because they're one hundred percent
14 constant supervision, you're literally on this
15 person every single step of the way, and so with
16 these mainly, you know, the point -- just the
17 safety aspect of the water depth, I mean we can do
18 it, you know, in six foot of water is what I say is
19 the minimum for my company and for like everything
20 we ever do. You know, they can do it in 15 feet of
21 water, but 6 foot is the minimum, the point of that

1 is the nozzle is above your shoulder, when that
2 happens it tends to keep your head above the water
3 at all times, that's mine, so that's a safety
4 portion of it, I guess I can say. I don't have
5 pretty much more to say.

6 THE CHAIR: Were there any comments that
7 you wanted to make about the regulations or the, or
8 our conversation?

9 MR. VONBUSSENIUS: As far as the
10 captain's license I wanted to push for something to
11 develop like a program. I wanted to get that guy's
12 name, I would like to talk to him, the master chief
13 officer of the Coast Guard because I would like to
14 invite him to look or take part in the two week
15 course to see what we're doing, because I feel like
16 a lot of it is just hearsay and not understanding
17 what it is. Basically I wanted to kind of push for
18 a schooling program that was at least nationally
19 recognized, maybe even internationally recognized,
20 like PADI or SSI is to scuba driving, people ask
21 and you say okay, they went through the course and

1 have the certification and they proved it to city,
2 state, insurance company and yes, they can do that
3 and safely operate that because once you're getting
4 into all making all of my operators have captain's
5 license, it's crazy. I have three people right now
6 in Miami doing a course that are coming up here
7 north that have been my long term instructors and
8 they're doing the captain's course right now, it
9 was expensive and it takes a lot of time and as far
10 as being the owner what am I going to do like pay
11 someone to take the course and then they take the
12 course and they have to go -- and it's just hours
13 of requirement, correct, where you have to work on
14 a boat and then have someone sign off on a boat, am
15 I going to send these people to go out and work on
16 a boat to get what they need, and then turn around
17 and say hey, you know -- I mean captains, they make
18 a lot of money, they can make up toward I have
19 heard 500 dollars a day. I know captains -- I know
20 that I can't afford to pay that to that guys --

21 THE CHAIR: So that's an interesting

1 insight, I think you have to take that one up with
2 the Coast Guard. I'm not sure, that's not our
3 call.

4 MR. KLING: If you send them to school,
5 you can put it in your contract if they leave they
6 have to pay it back in two seasons.

7 MR. VONBUSSENIUS: That's what I'm
8 trying to do is non-compete and things like that
9 with the employee.

10 MR. KLING: Well, make it they got to
11 pay it back.

12 MR. VONBUSSENIUS: One of the other
13 concerns I had was a hundred foot distance on the
14 boat. Ours are controlled remotely so a hundred
15 feet away, I don't know about all of you guys,
16 making a mistake a hundred foot away and you can't
17 see it, it won't happen. I keep people at least 30
18 to 40 feet away from my boat, but never over a
19 hundred feet because radio frequencies in the
20 helmets, because we're talking to these people and
21 controlling the throttle and talking to them in the

1 radio helmet and saying hey, pull down, don't,
2 don't pull your arms, no flailing, go right or
3 left, we're directing them where to go and what to
4 do. It's just not -- I don't want them to --

5 THE CHAIR: You're in the observing
6 boat?

7 MR. VONBUSSENIUS: As the instructor I'm
8 on basically a pontoon boat and, yeah, the pontoon
9 boat, whatever customers get on that, whoever is
10 driving that boat in that particular situation on
11 that, it's kind of a rental center, I use the boat,
12 and that needs to take charter people out to deeper
13 waterways --

14 THE CHAIR: Is that the observer boat or
15 the transporter boat?

16 MR. VONBUSSENIUS: That's another
17 confusing point. What is that called?

18 MS. WILLIAMS: It depends on how you're
19 acting and what we had talked about and changed was
20 that the operator could be in the hundred foot
21 circle, the observer can't.

1 MR. VONBUSSENIUS: Okay, and the
2 observer --

3 MS. WILLIAMS: Therefore you, you
4 can't -- right, right, so as the operator you can
5 be within the hundred foot circle, but you would
6 have to have an observer outside of the hundred
7 foot circle, which was what Steve was talking
8 about.

9 MR. VONBUSSENIUS: We've already done --
10 we have, the pontoon boat has all of the customers
11 and the instructors on the boat and then there's
12 always a jet ski, a ski per jet, whenever one of
13 these machines is out there, yeah, their job is to
14 go down, whether it be to restart it or make sure
15 it's okay, and all kinds of things and with
16 these -- you have problems with Ocean City where
17 there will be like 60, you know, 50 or 60 boats
18 coming in and they want to get closer and closer so
19 that spot ski is used as a barrier to push people
20 away and, like I said, I've been doing it this long
21 and we got a lot of people, but I mean for the most

1 part I agree with what you got.

2 THE CHAIR: And our conversation was is
3 there anything that you wanted to add to any of
4 that conversation? You can think about it.

5 MR. VONBUSSENIUS: It's kind of tough
6 to --

7 MR. KLING: Just, this would go to NRP,
8 it seems to me these guys can get, excuse my
9 language, screwed, they're doing everything right
10 and the public starts to come in and watch and I'm
11 just, I mean --

12 THE CHAIR: Yeah.

13 MR. KLING: -- it's just an enforcement
14 issue.

15 THE CHAIR: Yeah, I know.

16 MR. KLING: I would hope that the
17 officers in the water would at least be alert,
18 they're trying to do it right and the public is
19 messing them up.

20 THE CHAIR: Give us your name, stand up
21 and introduce yourself.

1 MR. CROSARIOL: My name is Sean
2 Crosariol. To answer that question, not speaking
3 for them, but for what I did, we started doing this
4 mid-July of last year, and I'm coming from a
5 background of about 14 years experience in the, in
6 the watercraft industry in Ocean City. My partner
7 has been, Ron's been, what, 25 years plus,
8 something like that, work very closely with Julie
9 all of the time. To answer your question when we
10 started doing it, I was the only one that was
11 running the craft which would be the jet ski that
12 powers. What I have is the Jetovator which is
13 slightly different than what he has, but
14 essentially they're the same thing, the observer
15 craft is what we're calling now was a certified
16 guide at all times they would bring the person out
17 to my setup that was on the water within a six foot
18 depth requirement which is we were doing before
19 this came about and that observer person I use them
20 at all times to monitor, they're basically in a 360
21 circle around me, they're always on the move to get

1 to the customer if something were to happen and
2 they're always keeping the general public off, much
3 like you would see in a rental aspect because
4 that's what we do with all of the renters at
5 Odyssea.

6 MS. WILLIAMS: That works out?

7 MR. CROSARIOL: It works perfect. I
8 implore you guys to come out, anyone of us will put
9 on a demonstration. I can get to them in less than
10 10 seconds at all times because my craft is always
11 on the move. Essentially the way this really works
12 to think about it is you have the jet ski that's
13 powering it and you have this unit which is the
14 flight portion and you have a hose. Well, what
15 happens is when you start the jet ski up it's
16 putting pressure through that hose, you're not
17 instantly getting in the air, it all comes from the
18 thrust of the ski, that's up to me. The
19 maneuverability and that comes from the person with
20 the handled controls so it takes off much like an
21 airplane would for mine so it powers up, the person

1 kinds of gets to the water level, we're not
2 instantly throwing people 30 foot in the air. The
3 most I ever take somebody up four or five feet,
4 that's it. The first time, that's it, that's after
5 we've had a discussion and developed a rapport,
6 anything beyond that is silly for the first time,
7 because you're going to scare people, you know,
8 there is not really in my opinion a possibility
9 of -- and I think the jet ski is way more unsafe
10 and that's coming from a lot of experience. We've
11 had deaths over the years, you know, some bad
12 accidents and nothing with this yet. This is new,
13 I don't feel there is any real safety concern as
14 far as these people getting in a situation where
15 they're going to get hit by anything else, we're so
16 concerned of keeping everybody away at all times.
17 Just to reiterate, the captain's license, I know
18 it's not you guys here, I would love to get with
19 you guys and sit down with the Coast Guard, because
20 the captain's license aside from being expensive
21 and limiting our business it's going to essentially

1 keep us from opening this year at all, it really is
2 one hundred percent, as far as I'm concerned. I
3 don't know about them. I can afford it for me, but
4 to have anybody else to work for me it's
5 impossible. I know it's not a concern from
6 business for you guys, it's going to afford me
7 some -- I believe, Mr. Pepe, you can answer this,
8 the Jones Act, which is some insurance things that
9 I don't have to carry, which means I don't have to
10 give, not unemployment, but it's workman's comp,
11 right?

12 MR. PEPE: Right.

13 MR. CROSARIOL: None of my guys are
14 covered under workman's comp and for a business
15 with skis flying around and people possibly getting
16 injured, you don't want that and I think that would
17 be a concern. Maybe for the master chief if we can
18 sit down, I would like to see some sort of a
19 program like we do now with Julie on a yearly basis
20 where everybody gets certified, you know. I took
21 it upon myself already, my guys are going to come

1 to her, but as far as anything right now I don't
2 think we have anything in the works.

3 THE CHAIR: John.

4 MR. PEPE: Do you, your people go
5 through any type of a basic first aid course?

6 MR. CROSARIOL: CPR training every year.
7 I have no problem with this -- nothing in this do I
8 have one problem with, the only thing is the
9 captain's license and that's just, I think it's too
10 much for what we need to do. I mean it's just, I
11 mean you guys are master captains, does it really
12 make sense? I mean it doesn't, it's just giving us
13 a lot of privileges that we shouldn't, A, have or
14 need.

15 MS. ALLISON: Just what's legal.

16 MR. CROSARIOL: I mean, I understand, I
17 said something to Julie yesterday, what if I was to
18 rent a jet ski, Julie is the owner and I rent the
19 jet ski and she tows me out with a line and I have
20 mine running and she tows me out, you're dragging
21 me around the bay, they don't need a captain's

1 license to do that.

2 MR. PEPE: What you're talking about is
3 really above our pay grade, this is Coast Guard
4 stuff.

5 MR. CROSARIOL: Do you think that is
6 something that we can sit down and come up with an
7 exemption?

8 THE CHAIR: The Coast Guard are federal
9 employees, they would love to talk to you guys,
10 they're federal employees.

11 MR. CROSARIOL: As far as the safety
12 stuff though, no problems. This is stuff we were
13 doing, we go above and beyond. Julie saw our
14 operation, Brad Bunting has been out there, we
15 invited him out there -- I mean every ride, he's a
16 good friend, DNR police officer he comes out and
17 watches every time, it's always going to be the
18 right depths and always going to take precautions,
19 but as far as the licensing it's an issue.

20 THE CHAIR: We'll talk to Mike and Mark
21 and see if it's possible to come out on one of our

1 future meetings.

2 MR. GRANT: I was going to recommend
3 with NRP permission we get these guys to come down
4 to Sandy Point the same that we did with the
5 wakeboard and you guys can work within the pond, do
6 some demos out there and if anyone wants to hop on
7 a ski.

8 MR. CROSARIOL: We'd love it, I think
9 it's great, and the only other thing I would say is
10 real quickly I mentioned to Ann and Julie at the
11 last meeting, I don't know if it's possible or if
12 it's you guys, but possibly coming up with another
13 category, to group us with a vessel or a jet ski.
14 I don't know about all of the inspections for a
15 captain, but I believe you have to be OUPV
16 inspected, am I correct? Do you have to for your
17 vessel, correct? I mean I don't know.

18 MR. PEPE: No, you're not required.

19 MR. CROSARIOL: How do you inspect the
20 jet ski, does the Coast Guard inspect them?

21 MR. PEPE: Their is no inspection.

1 MS. ALLISON: It's an uninspected
2 vessel.

3 MR. CROSARIOL: But you're requiring me
4 to be a captain of an inspected vessel.

5 THE CHAIR: We're not.

6 MR. CROSARIOL: I'm just -- this is for
7 my information, I'm sorry.

8 MR. PEPE: But in different categories,
9 in personnel, the amount of people you take out
10 and, you know, that quantifies the vessel for
11 inspection.

12 MR. CROSARIOL: Okay. That's all that I
13 have.

14 MR. PEPE: I just have one technical
15 question about this, looking at it is there any
16 positive buoyancy in this system at all when it's
17 sitting?

18 AUDIENCE PARTICIPANT: Yes, everything
19 floats.

20 AUDIENCE PARTICIPANT: It all floats.

21 MR. CROSARIOL: Mine the whole

1 contraption it's filled with a foam, it's a
2 plastic -- basically mine has three jets, his has
3 two. I have like one it's almost like a sport bike
4 you stand on and it's got a center jet that
5 provides a lift and the two front ones are how you
6 turn. It's all buoyant. Your helmet floats and
7 the life jacket floats and then the unit itself
8 floats completely.

9 MR. MARSH: How many people -- I think
10 you have two different types of methods in which
11 you can take me out for the ride, you take them out
12 on a jet ski, right; in other words, if I hired you
13 to go up in the air, you ride me on the back of
14 your jet ski out to where I'm going to --

15 MR. CROSARIOL: No, sir. We set up the
16 whole unit. To make this work you have to use the
17 pressure of the pump in the jet ski, in order to do
18 that you take away the majority of the thrust. You
19 normally grab a jet ski, it jerks and you go, well,
20 we redirect that thrust to the hose so it's very
21 limited. The speed on the jet ski is below six

1 knots at all times. I cannot make that thing go
2 faster unless the unit is pulling and the maximum
3 speed is 18 knots, that's tops. You can't go no
4 faster than that.

5 MR. MARSH: Do you ride me on the jet
6 ski?

7 MR. CROSARIOL: No, that's set up on the
8 water and I have another one of my guys, I have a
9 19 foot Zodiac mooring boat, soft grip boat, and I
10 bring people out on that --

11 MR. MARSH: Four or five people or
12 whatever amount that you have?

13 MR. CROSARIOL: We only do one at a
14 time. We weren't allowing an observer because that
15 goes back to them paying and I know that would be
16 an issue, but --

17 MR. MARSH: You bring one out at a time
18 and you could have two or three and have me sitting
19 there.

20 MR. CROSARIOL: We have the jet ski out
21 there too and I don't allow it because Ocean City

1 bay gets very choppy about midafternoon, and the
2 police can attest to that, it's too much for my
3 guys to be concerned with the person that I have in
4 the air have their maneuverability limited by
5 having another person on the ski. That's my
6 opinion again on this, this is -- what we do is
7 above and beyond this.

8 MR. MARSH: Now, you do the pontoon, you
9 have a --

10 MR. VONBUSSENIUS: I might be able to
11 show you a commercial and how it operates.

12 MR. MARSH: You bring five or six --

13 MR. VONBUSSENIUS: Pontoon, six people
14 on there at maximum, you know what I mean, and then
15 we just take the pontoon out to deep water and like
16 his ours is set up out there, okay, and there is
17 already a ski and unit out there, and we take the
18 pontoon out and anchor the pontoon, that stand
19 literally sits on the front of the pontoon, it's a
20 clear deck, that sits on the front of the pontoon,
21 the instructor goes through all of the safety stuff

1 and signs the waivers and goes through all of that.
2 It's very easy, up, down, left, right, nothing more
3 to it, strap them in and put the helmet on, throw
4 them in the water and the other guy gets in and the
5 instructor is talking to them all of the time.

6 MR. MARSH: You may take four or five
7 people out from when I come to your company and I'm
8 ready to go?

9 MR. VONBUSSENIUS: Yeah. A captain's
10 license is needed --

11 MR. MARSH: For hire or so to speak.

12 MR. VONBUSSENIUS: What I don't want to
13 run into, they run off of the docks and they work
14 great, so I don't have to have that boat. I have a
15 line of people sitting on the pier and it's great,
16 but I don't want to have that person be a captain,
17 you know what I mean, because that's, he's not even
18 piloting a boat at all.

19 MR. MARSH: You have three systems,
20 yours you take them out --

21 MR. VONBUSSENIUS: We go two different

1 ways.

2 MR. MARSH: You take them out with a PWC
3 and you're a PWC. How about you guys, how do you
4 work yours?

5 MR. WOOD: We do similar to them, we
6 take them out on a pontoon boat or jet ski, we'll
7 set out there and our jet, flyboards -- I'm Justin
8 Wood, by the way, Justin Wood, Chesapeake
9 Flyboarding.

10 MR. MARSH: Stand up.

11 MR. WOOD: We do it similar, we take our
12 jet skis out and we anchor them down and bring them
13 out by pontoon boats and as we -- I should have
14 brought one of mine, I didn't bring it -- but it's
15 actually a wakeboard and it has two jets that come
16 out of it and it hooks up to the back of the jet
17 ski itself, the hose, and then we put the person in
18 the water and they extend out the hose, so our hose
19 is 55 feet, they extend all of the way out from us
20 and then they give us the thumbs up when they're
21 ready to go up. We only put our riders at 45

1 hundred RPM at all times, that really only takes
2 them five to seven feet off of the water depending
3 on how well they pick up the control of the
4 flyboard itself.

5 MR. MARSH: So the jet ski's sitting
6 there and you're controlling when you --

7 MR. WOOD: Yes, I'm on the jet ski.

8 MR. MARSH: The other people are sitting
9 back there and waiting?

10 MR. WOOD: Yes, yes.

11 MR. SIMON: How many of these units are
12 in the Maryland waters now and what's -- what area,
13 are they in Annapolis?

14 MR. WOOD: As far as I know it's only us
15 three.

16 MR. CROSARIOL: Because of the cost,
17 it's expensive.

18 THE CHAIR: Three companies in Ocean
19 City currently.

20 MR. SIMON: Anything from the DNR police
21 on these?

1 THE CHAIR: So you've observed these
2 over the years, over however long, and do you have
3 any observations that you want to share is what Al
4 is asking?

5 AUDIENCE PARTICIPANT: They're
6 relatively new, they showed up in Ocean City last
7 year. I'm not aware of any accidents that were
8 reported to us because of them. I can't speak as
9 far as how many people they actually took up so I
10 can't help you as far as that goes.

11 MR. SIMON: Is this new?

12 AUDIENCE PARTICIPANT: Relatively new.

13 THE CHAIR: How long have you --

14 MR. CROSARIOL: We tested a few a few
15 years ago and we tested and we settled on what I
16 do, on the Jetovator, and that was three years ago,
17 we pulled in another one this past season, so in
18 2013. I think Alex is about the same time I did in
19 Ocean City. I don't know about you guys.

20 MR. WOOD: This is our first season down
21 in Ocean City, but we started in September up there

1 in Northeastern Flyboard, we were working with them
2 down in northern Florida like a month ago and we
3 hung out there for a few weeks and worked with them
4 very well.

5 MR. CROSARIOL: The cost of these units
6 is fairly expensive. Alex's is the most because of
7 that pod that he has, but not to say you're not
8 going to have some fairly affluent person purchase
9 these. I don't think it was like with the jet ski
10 craze, at least not for now. I'm not, you know --
11 my unit starts around 15 thousand, that's minus the
12 jet ski, around 30 to get set up.

13 MR. WOOD: Our is about 15.

14 MR. VONBUSSENIUS: These are 70
15 thousand.

16 THE CHAIR: 70 thousand. Steve's got
17 the floor.

18 MR. KLING: Sounds to me from your
19 description of the operation --

20 MS. WILLIAMS: His?

21 MR. KLING: No, him. Sorry. Sean.

1 MS. WILLIAMS: Sean.

2 MR. KLING: His description, Sean's
3 description of Sean's operation that you may be in
4 violation of their proposed regulations because I
5 think what you're taking people out --

6 MS. WILLIAMS: It's Alex.

7 MR. VONBUSSENIUS: We started them from
8 the water and landing in the water, I was going to
9 show you.

10 MR. KLING: You said that you were
11 giving them --

12 MR. VONBUSSENIUS: They're sitting on
13 the pontoon boat.

14 MR. KLING: I don't care about the
15 details, but then you have them go off the pontoon
16 and into the water. At that point don't you, if
17 these regulations are in place, aren't you going to
18 need to drag them a hundred feet from the pontoon
19 boat?

20 MS. WILLIAMS: The operator can be
21 within that hundred foot circle, his pontoon boat

1 is his operator because he does not have a person
2 as his operator in his pod.

3 MR. VONBUSSENIUS: There is a person in
4 the water with them, so they're say 15 feet away,
5 10, 15 feet way away, there is a very low idle,
6 there is an instructor in front of them and going,
7 hey, and as they're doing this, they're saying this
8 is up and down, this is left or right, and it's
9 just basically taking them away from the boat,
10 okay, and getting them in the right position of 45
11 degree angle position and when they go they say
12 okay, that's when the instructor takes over and
13 starts up, pull down slowly. It's very safe.

14 THE CHAIR: I think Steve has a good
15 point here and that is if the pontoon boat upon
16 which the operator is sitting also has four or five
17 other people who are in line for a turn on the
18 JetLev is that -- and it's within the hundred foot
19 radius; is that okay?

20 MS. WILLIAMS: Once you put the pontoon
21 boat in I don't know. We've talked about that a

1 little bit, that's why the operator on the jet ski
2 makes more sense, the operator on the jet ski --
3 we're going to compare the two -- because the
4 operator on the jet ski is a person sitting and
5 doing the thrust and in his case he doesn't have a
6 jet ski, he has to be inside the hundred foot
7 circle, nothing in your regulation says another
8 person can be inside of that. The regulation
9 absolutely says no person or thing, so he could not
10 use his pontoon, bring out other people waiting in
11 the hundred foot circle. The pontoon could be
12 outside of the hundred foot circle and another jet
13 ski or vessel or pontoon boat could be where he's
14 regulating from, but his pontoon boat it says
15 specifically no person, thing, anything in that
16 hundred foot circle. Now mooring buoys and
17 buoys --

18 THE CHAIR: If he's on the pontoon and
19 by himself operating the JetLev, he's fine?

20 MS. WILLIAMS: Correct.

21 THE CHAIR: It's just if he puts more

1 people on there.

2 MS. WILLIAMS: The operator --

3 MR. KLING: It doesn't say that.

4 MS. WILLIAMS: Doesn't it say the
5 operator can get inside of the circle?

6 MR. KLING: If the platform from which
7 the operator is working, it doesn't say you can't
8 have more people on that platform.

9 MS. WILLIAMS: Doesn't it say no other
10 people?

11 MR. KLING: No.

12 MR. BUSH: We're now splitting hairs,
13 and for the people in business to keep making money
14 let's keep a bold outlook on the whole thing.

15 THE CHAIR: Thank you, John.

16 MR. BUSH: Let's not put the people out
17 of business because if we keep going the way you're
18 going they will not be able to stay in business and
19 so being outside of the business area we need to
20 always keep that in mind. Safety is great,
21 business is more important. America works on

1 money, let's not forget that.

2 THE CHAIR: Thank you, John.

3 MS. WILLIAMS: Go to number 9.

4 THE CHAIR: Wait a minute. Ann, go
5 ahead.

6 MS. WILLIAMS: 9H2, okay, so if you're
7 not traveling, if you're using this device to fly,
8 okay.

9 THE CHAIR: Which document?

10 MS. WILLIAMS: Number 9H2, 05H2, I'm
11 sorry. Flying out of the water in a manner,
12 recreational activity similar to waterskiing you
13 must maintain at all times a hundred foot safety
14 zone in all directions and including vertically of
15 a bridge, structure, shore, wharf, people, piling
16 vessel or people, the only exception was the
17 operator --

18 MR. KLING: People in the water, that's
19 swimmers, that's not people.

20 MS. WILLIAMS: So you want it just
21 people?

1 THE CHAIR: No, no, we're not arguing --

2 MR. KLING: I want regulations that
3 don't put this guy out of business if he's
4 operating safely and from what his description is
5 he's got a problem.

6 MR. MARSH: If you're putting people on
7 pontoon --

8 MR. KLING: I don't see anything that
9 says that he can't have people on the pontoon boat.

10 (Discussion held off the record.)

11 THE CHAIR: We're back to Steve's
12 question and only Steve's question. Try it again.

13 MS. WILLIAMS: Your question is who
14 could be on the operator's barge, right?

15 MR. MARSH: Pontoon boat.

16 MS. WILLIAMS: Where can the operator be
17 and who can be on the operator's --

18 MR. KLING: Correct.

19 MS. WILLIAMS: What I just asked the
20 Natural Resource Police, who would be enforcing it,
21 they don't seem to have a problem with more persons

1 being on the operator's vessel, they do have a
2 problem with that being the observer, so if that is
3 your only observer they do have a problem with
4 that. Okay. So that's what they said, so if you
5 are taking out a group of people on the operator
6 and you're in the hundred foot circle and you're
7 doing the operation of your device and there is
8 other people on whatever, you're inside being the
9 operator, they're okay with that but you must have
10 another person in that hundred foot circle keeping
11 the circle and for your safety.

12 THE CHAIR: Okay.

13 MS. WILLIAMS: It clearly says that,
14 Steve, and if it doesn't send me an e-mail and I
15 will address that in the changes that you think
16 would make it stronger.

17 MS. HENNINGER: I think it might need an
18 instructor, specify the instructor and the --

19 MS. SMITH: That's the operator --

20 MS. WILLIAMS: No, it's a different
21 person.

1 MR. VONBUSSENIUS: I'll show you.

2 MS. WILLIAMS: It is a different person.

3 THE CHAIR: Can you make that run, is it
4 working?

5 MR. VONBUSSENIUS: Yeah.

6 MR. GRANT: Waiting for your permission.

7 THE CHAIR: Let it roll.

8 (Video playing.)

9 THE CHAIR: What we're going to do is
10 we're going to break for lunch and you are all
11 welcome to join us for lunch to talk about this
12 over lunch, and then come back and finish the
13 conversation. I think there are at least two
14 outstanding questions. One is the pontoon.

15 MR. MARSH: People on the pontoon boat.

16 THE CHAIR: The people on the pontoon
17 boat and his instructor in the water.

18 MR. KLING: Yeah, that needs to be --

19 THE CHAIR: And then we'll come back and
20 have some questions because I don't think we're --

21 MR. SIMON: Could I ask one question,

1 what's the purpose of this presentation today as
2 far as --

3 THE CHAIR: They came to us to take a
4 look at the regs just to ask any advice that they
5 could get from us on the advisory committee before
6 they move things forward, if that's possible, you
7 know, given the current, the way it works with them
8 so that's what that is about.

9 MR. SIMON: My comment is I just
10 wondered if we can do what we have done in the past
11 given approval for a period?

12 THE CHAIR: This is for 180, this is for
13 180 days, this is a six month emergency regulation.
14 It would go into effect for six months and at the
15 end of the six months, during that six month period
16 everyone, NRP, we, others, would be evaluating how
17 this is working both for the state, for the folks
18 using the Jetlevs, for the folks in the business of
19 renting the equipment and making the money off of
20 them hopefully and then during the 180 day period
21 we'll be evaluating and after that 180 day period

1 we'll be developing a regulation that will go
2 through the normal process. So it's exactly what
3 you're suggesting.

4 MR. SIMON: Is there any conflict with
5 the Boat Safety Advisory Council with tidal
6 waters --

7 THE CHAIR: So Ann says no. That's a
8 good question, but Ann says no.

9 MR. SIMON: Well, I served on it for six
10 years and I think it has to be also approved by the
11 Boat Safety Advisory Counsel.

12 THE CHAIR: If someone can help me with
13 that, that would be great.

14 MR. O'MALLEY: We can run that through
15 them. We got it, Al, we're good.

16 THE CHAIR: Mark said he'll run it by
17 them.

18 MS. WILLIAMS: Unfortunately, I had a
19 previous meeting so I will not be here after lunch.
20 But I wanted to bring out one thing that came up
21 that one of the things when we lumped all three

1 units together and called them a vessel, JetPack,
2 it came out that maybe one of these or two of them
3 maybe won't be as good as another one, over time
4 one of them might have more accidents and by
5 calling them JetPack vessels they were concerned
6 that all of them would be in or all of them would
7 be out and I had spoken with Major Sewell with the
8 Natural Resource Police and he says on all Coast
9 Guard accident investigation reports they put what
10 kind of model is in the accident, so we're going to
11 educate the Natural Resource Police, particularly
12 in Ocean City, on the three different model types
13 to be identified by and that way two years from now
14 when we come back and find out this new guy, one we
15 don't know about, the one that does it with the
16 parasailer that did something terribly wrong that
17 we can write regulations to address the things that
18 that one has which is separate from the ones that
19 don't need that type of thing because they were all
20 afraid that one would take out their whole business
21 and that won't happen the way that the Natural

1 Resources reports come in, so I wanted to make sure
2 that you guys know that.

3 THE CHAIR: You did a great job in
4 presenting.

5 (Luncheon recess.)

6 THE CHAIR: Folks, let's take our seats
7 and get started, please.

8 MR. BUSH: I have a proposal to make,
9 two proposals to make, and they are as follows:
10 The idea of having a captain involved with this
11 operation I think should be completely taken off of
12 the table, there is no justification for it. And
13 number 2, the idea of concern about having more
14 than one person in a one hundred foot zone, the
15 operator brings in the people for the event, one
16 person puts on the harness, goes in the water, then
17 they would remove the boat out of the one hundred
18 foot zone, the person does the 30 minutes, he gets
19 back in the water and goes back into the zone, he
20 picks him up and the other person puts on a harness
21 and moves out.

1 Now, I think that's the major points
2 that I saw so far in all our discussion and if
3 those two things are taken care of then we have
4 nothing else to talk about.

5 THE CHAIR: So I think there is one more
6 thing and that is -- I'm sorry, I forgot your name.

7 MR. VONBUSSENIUS: I'm Alex.

8 THE CHAIR: You said that you have an
9 instructor in the water.

10 MR. VONBUSSENIUS: Yeah, we have an
11 instructor and assistant with every single customer
12 and the instructor takes them in and shows them up
13 and down, left and right, and controls the
14 throttle, the assistant gets in the water with
15 them, and we call it shadow flying, and puts them
16 in the right position to fly and moves them a safe
17 distance away from the boat so they can take
18 flight. At that time the assistant breaks off and
19 breaks away and gets on the jet ski and goes around
20 and that's how we've done it from day one and it's
21 working out.

1 THE CHAIR: As the reg's written now it
2 doesn't allow you to have that person in the water.

3 MR. VONBUSSENIUS: We need to change
4 that.

5 THE CHAIR: Steve, did you have some
6 thoughts on that?

7 MR. KLING: Yeah. In our attachment
8 number 9, chapter 40 in 05H2A where it says vessel
9 or people in the water you can just add a
10 parenthetical except for an in-water instructor or
11 assistant.

12 (Discussion held off the record.)

13 MR. KLING: I think that accommodates
14 your need.

15 MR. VONBUSSENIUS: Yeah.

16 THE CHAIR: Go ahead, Chris.

17 MR. PARLIN: I've been through this so
18 many times, I don't think the Coast Guard captain
19 requirement is written in the Maryland rules,
20 correct? That falls on the Coast Guard and that
21 falls outside of our venue so as long as it's not

1 written in any of our rules that battle can be
2 waged between the operators and maybe with any
3 other interested parties so that's not even part of
4 our, our regs or our protocol.

5 THE CHAIR: So while we're waiting for
6 Julie, there was one outstanding issue that John
7 raised and that was do the people on the observer
8 boat need to have any special additional safety
9 education and Russ replied, well, if they're kind
10 of like observers on the ski boat and we don't
11 require anything of them in terms of safety
12 education why would we do so for this observer
13 boat, so is there any conversation around that?
14 John.

15 MR. PEPE: I would like to suggest that
16 at a bare minimum people on the, you're calling a
17 rescue boat, not observer boat, if they're going to
18 be involved in a rescue operation they should have
19 a basic first aid course. I don't think that's
20 asking too much.

21 MR. VONBUSSENIUS: Every employee that

1 we have is first aid certified, CPR certified and
2 they have the boat license, or the boating, basic
3 one, not the captain's, so if that's enough, I
4 would, you know --

5 MS. SMITH: Yeah. Just to follow-up,
6 could you guys outline the source of common
7 injuries that you see and what is sort of the worse
8 case scenario?

9 MR. VONBUSSENIUS: Worse care scenario
10 that would be in, I mean, you know, there is always
11 a risk of someone hitting the vessel that's
12 trailing them, but that's what the instructor is
13 for. I have never had that be the case because
14 you're watching them so, again, you're watching
15 them so closely like a hundred percent of the time,
16 I mean and you're controlling their thrust so their
17 arms are going up -- first of all, you're talking
18 to them in helmets saying pull down, pull down,
19 pull down, and then you're also throttling them
20 down which forces them to go forward and to fall
21 into the water and a lot of these things, like I

1 said before, all of this is required by our
2 insurance companies, which is really -- I mean
3 they're like really in-depth.

4 MS. SMITH: What are the common --

5 THE CHAIR: Chris wanted to jump in.

6 MR. PARLIN: Let's go back to, let's
7 look at the reason this is and, one, it's to cover
8 the livery operators but, two, it's the private
9 boat, so you're going to require a private boat,
10 person to have a rescue vessel with a trained
11 person, rescue operation. I think, I agree with
12 the safety being paramount, but I think these folks
13 are going to be regulated by their insurance
14 company and they're going to do the right thing to
15 cover, to make sure they're going the right stuff,
16 I can't see us making Joe bag of doughnuts hire a
17 rescue vessel while he's operating.

18 MR. PEPE: Doesn't this come under the
19 livery operators?

20 MR. PARLIN: This is every JetPack,
21 JetLev out there, covering both public and -- you

1 know. I think they're going to be regulated by
2 their own insurance company, so --

3 THE CHAIR: Thorny.

4 MR. JONES: So this, is this amendment
5 about instructor or assistant, should that only be
6 on the livery?

7 MR. PARLIN: So if I may, if I go out in
8 my device and get trained by JetLev or one of these
9 to operate my new toy and I bring Steve Kling over
10 to my house and I want him to ride on my device
11 should I be allowed, if I have been trained by the
12 manufacturers, should I be allowed in the water
13 with him or should I cut him loose on his own? I
14 think that's -- you put it in that perspective,
15 should we allow a private person to have an
16 instructor in the water and I think we should.

17 THE CHAIR: I agree with that, that's
18 what we do for waterskiers all of the time. I'm
19 often in the water with the waterskiers.

20 MR. KLING: I mean these things get
21 reg'd together and it doesn't fit in the livery. I

1 mean there's not a logical place for it in the
2 livery regulations.

3 MR. JONES: I was making sure that we
4 were clear on that.

5 THE CHAIR: No, it was a good question.
6 So I don't know if we've come to a consensus on
7 this, but this is a 180 day emergency reg and maybe
8 we can let it go the way it is without any special
9 requirements on the observers until we see if
10 anything is really needed, if folks are amendable
11 to do that we can go that way. Okay? That sounds
12 great, thanks. I think with John's input and
13 Steve's, John Pepe's point of view, I think we can
14 all --

15 MR. DWYER: The only thing that I have
16 to say, I agree with you with the captain's thing.
17 The livery operators need to know that it's not our
18 bucket saying it's okay to do it, Coast Guard can
19 still come and get them and write them a ticket, a
20 fine for operating without a captain's license,
21 that's my feeling.

1 MS. ALLISON. Yep.

2 THE CHAIR: So before we wrap up this
3 conversation, do you have anything else that you
4 want to add?

5 MR. KLING: I want to know the date of
6 the hands-on evaluation?

7 MR. GRANT: We will advise.

8 MR. KLING: I don't think we should let
9 that detail slip.

10 MS. HENNINGER: They're saying if you
11 want to come down personally.

12 MR. WOOD: Come down and --

13 (Interruption in the proceedings.)

14 THE CHAIR: One conversation at a time.

15 MS. BROWN: If I'm the guinea pig, we
16 need somebody else and so John has stepped and
17 Steve is stepping up to the folks and all of these
18 folks over here have already agreed to possibly
19 doing a demo in Ocean City.

20 MR. CROSARIOL: I'm off up at 49th
21 Street and beach access and we invite --

1 MS. BROWN: Odyssea has beach access for
2 everyone to be on the beach to watch as well so we
3 can arrange something.

4 MR. PARLIN: I make a motion that we, I
5 would like to make a motion that we accept the
6 regulation with the input that was given by the
7 committee, the few changes that were given by the
8 committee, accept the regulation for the 180 day
9 period.

10 MR. LEVITAN: Second.

11 MR. KLING: I suspect technically it's
12 not our job to accept it, we recommend the option.

13 MR. PARLIN: Recommended.

14 THE CHAIR: Recommended. You got it,
15 Kelly? Thank you. All in favor? Any opposed?

16 (Vote taken.)

17 THE CHAIR: Many thanks to Julie, Ann
18 and NRP for bringing this forward. Great job.

19 (Applause.)

20 THE CHAIR: Thank all of you for coming
21 and sharing your expertise and knowledge with us

1 because we appreciate it.

2 MR. CROSARIOL: Thank you for hearing us
3 out.

4 MR. VONBUSSENIUS: Thank you.

5 THE CHAIR: Mike.

6 MR. GRANT: Let them move their unit out
7 of here.

8 (Pause in the proceedings.)

9 THE CHAIR: What's up next?

10 MR. GRANT: What's up next, Potomac
11 River.

12 THE CHAIR: Okay.

13 MR. GRANT: Thank you. All right.
14 Sorry about the light, but you have your packets,
15 each one of you have a copy of this presentation
16 here. We were asked, or NRP and National Parks
17 Services and some other entities were, and the
18 rescue squad all up and down that area, the search
19 and rescue Montgomery, PG County, et cetera,
20 approached us with the issue of water safety within
21 this area of the Potomac River because we own the

1 water. National Park Service is on either side, as
2 are some of the counties, and the issue that they
3 have -- I'm sorry, you have to refer to your
4 PowerPoint printout -- is the area up here at the
5 top, zone A, by Great Falls. The red area right
6 here is a prohibited zone. Nobody is allowed in,
7 no way, no how, 200 yards above the dam for obvious
8 reasons and then the restricted area here and the
9 restricted area down here (indicating) is the same
10 situation down here above the dam. You're allowed
11 in here if you fit a certain qualification, you
12 have to wear life jacket, you have to be in a
13 vessel. Vessel is a kayak, any other kind of boat
14 as described in COMAR, which you have a copy of the
15 second page of your handout, the third page of your
16 handout. The National Park Service has issues in
17 the middle here, this no man's land. There are no,
18 there are no rules or regulations within this area
19 right here (indicating). They have made a request,
20 first of all, for us to put up on our website some
21 kind of depiction of what is and what isn't

1 available for swimming or activities. This right
2 now is no -- this is all no recreational, which
3 means basic swimming in either one of these areas.
4 In between you can do what you like. They either
5 want us to put a map up on the website that depicts
6 where you can or can't go or shut the whole river
7 down, period, no recreational activities
8 whatsoever. You can still kayak, you also can if
9 you're a commercial operation have life saving
10 drills within the restricted areas, but you have to
11 get a permit from the National Park Service to
12 access that land, to access the land to get to the
13 water, not a permit to get in the water. It's a
14 permit to get on their land for a commercial
15 venture. So I think the NRP will concur, I'll let
16 Joe jump in a minute, that this is not such a bad
17 idea to shut it down, but I'll let Joe jump in at
18 this point.

19 OFFICER OFFER: The main issue with the
20 main -- I got a green one. What's yours, red? The
21 main, the main issue in here for us is enforcement

1 and accessibility. The last thing that Mike just
2 mentioned was they issue a permit to allow access
3 to the river. By COMAR there are certain
4 activities that we're supposed to be able to issue
5 permits from DNR and they would include -- Mike
6 check me on this -- it would include any search and
7 rescue training, operations that are done in that
8 area. There are some organizations that are doing
9 rescue training, we believe they're doing a service
10 to us by being trained, you know, trained and up on
11 those particular tactics to save people, so we
12 think that's a benefit and wouldn't want to hinder
13 that; however, this section of the river in here
14 that's not covered people can swim. They may
15 violate the federal regulation by getting into the
16 water, but there is no prohibition for them to swim
17 in there and the main issue with that is
18 non-synchronization between what the feds are
19 trying to do and what we're trying to do. So
20 that's the main focus of what National Park Service
21 wants to do on that particular issue is just to

1 shut that part of the river down to swimming and
2 we'll all be in synch. Their enforcement efforts
3 and our enforcement efforts and the goals would be
4 the same.

5 THE CHAIR: Is it dangerous in there?

6 OFFICER OFFER: Two issues that I talked
7 about, one was permitting for the training for
8 rescuing, kayaks and thing of that nature. The
9 other is we don't prohibit swimming this that area,
10 but it's prohibited access to the water.

11 MR. LUNSFORD: It's an illegal exit from
12 a park, if you go into the river from either side
13 of the park -- that's what it was years ago when I
14 wrote it.

15 OFFICER OFFER: Either shore will fall
16 within that park.

17 THE CHAIR: What park is it?

18 OFFICER OFFER: Great Falls Park area
19 and they have a Virginia and a Maryland side.

20 THE CHAIR: Fred.

21 MR. LEVITAN: Approximately what size

1 area are you talking about and how much
2 recreational activity is in there that's causing a
3 problem?

4 OFFICER OFFER: Let me go -- the size on
5 that, I haven't measured the distance of the river
6 that we're talking about, more importantly as far
7 as --

8 MR. LUNSFORD: I think it's about three
9 miles.

10 MR. GRANT: Zone A to B.

11 MR. LUNSFORD: Between the two dams.

12 OFFICER OFFER: That sounds about right
13 to me. The issue is the nature of the water, that
14 far outweighs any other consideration. Depth is a
15 factor in that it can be shallow, it can be
16 extremely deep, it depends on what's happening up
17 river and what's coming through. The other is it's
18 deceptively inviting. The problem that we have is
19 not with kayakers, the problem that we have is with
20 the prohibited activity of swimming. People who
21 die on this river are swimming. They don't

1 understand that below that pretty surface are rocks
2 and their feet will get caught in between a rock
3 crevice and once your foot is caught -- see, my
4 foot is caught under Al's chair -- my foot is
5 caught and the water is pushing me down and this is
6 what it ends up doing and that's how we lose
7 people, you can't get out and fight that water.
8 That water is equally as vicious at the dams, at
9 the falls, as it is in this area in between. If
10 that water is running that water is moving and it
11 is moving at a quick pace. I spent quite a bit of
12 time down there and just looked and I tried to
13 understand the allure of this area and I could
14 really, I could really understand how people would
15 get lured into thinking, well, this is a cool place
16 to, a cool place to swim and on a given day it may
17 be a cool place to swim but on many days it may not
18 be and there is no in-between those two zones.
19 There is no real indication or anything that occurs
20 naturally that would cause someone to think this is
21 a risk for me to get into this water. So I think

1 it is a reasonable request, we support it,
2 reasonable request to just get rid of that doughnut
3 hole in there and extend the entire area as a
4 restricted area.

5 MR. MARSH: How many people would that
6 effect, how many people do you see swimming in the
7 Potomac? I mean is it 15 or a hundred and -- I
8 mean is it a lot of people?

9 OFFICER OFFER: Right now I have four
10 officers down there and based on my projections
11 they will write two to three hundred tickets in a
12 season.

13 MR. MARSH: Right in that restricted
14 area?

15 OFFICER OFFER: There is a wonderful
16 little place -- let's see if I can find it -- there
17 is a wonderful little place just over, just north
18 of, just north of the beltway, starts with a S. I
19 can't think of the name of it. It takes a
20 tremendous amount of effort for us to get in there.
21 It's a 60 foot cliff and kids like to jump off that

1 cliff into the water. That's really neat if they
2 got enough water to jump into, but they don't know
3 what the water level is, they don't know if it's,
4 you know, if they're going to hit the rocks and
5 they have come down and as one of my officers
6 explained to me, you know, they come -- he's seen
7 them come off of there and go splat, literally.
8 All you got to do is jump and go in the wrong
9 direction, so those are the types of things that
10 we're trying to prevent.

11 THE CHAIR: Steve.

12 MR. KLING: You're writing two hundred
13 tickets in the current restricted zone?

14 OFFICER OFFER: We're writing them in
15 here (indicating). What are we going to capture
16 when we open it up? In the place where it's
17 restricted for them to swim we're writing these
18 violations.

19 MR. KLING: Right, but --

20 OFFICER OFFER: The numbers are going to
21 go way up, yeah.

1 MR. KLING: Cole's question went to the
2 how many people are using it?

3 OFFICER OFFER: I don't have the visitor
4 number from the Park Service.

5 MR. KLING: Virginia is not part of it.

6 OFFICER OFFER: Not all of it.

7 MR. KLING: No, it isn't.

8 OFFICER OFFER: Maybe not all of this,
9 you're correct on that, but I know from the D.C.
10 line and up here (indicating) seeing what the main
11 factor is the canal.

12 MR. KLING: That's on the Maryland side.

13 OFFICER OFFER: That's on the Maryland
14 side.

15 MR. GRANT: Right.

16 THE CHAIR: Would we be shutting the
17 river down to anybody on the Virginia side too?

18 OFFICER OFFER: Yes.

19 MR. GRANT: National Park Service is
20 requesting it.

21 THE CHAIR: What about the Virginia

1 side?

2 MR. GRANT: They're fine with it.

3 MR. KLING: What about the private
4 landowners?

5 MR. GRANT: With the exception of the
6 private landowners, you're right.

7 OFFICER OFFER: What Mike said is the
8 issue is the synchronization between what the
9 federal government said you can do and what the
10 state of Maryland says you can do and there is no
11 issue with private land at all.

12 THE CHAIR: So the federal government
13 said that you can't go in from the federally owned
14 land.

15 OFFICER OFFER: That's right.

16 THE CHAIR: They can't say you can't
17 swim in it, but you can't from our property.

18 MR. LUNSFORD: Years ago I was in on the
19 original writing of this and there was a study
20 done, Recreational Use of the Potomac River, I
21 forgotten, Bob somebody, but there is a window

1 where the people drown in the Potomac River in this
2 section. When the water is high and in the flood
3 stage, people have enough sense to say out of it.
4 When it's low, people don't drown, there's not
5 enough horsepower or current to hold them down.
6 The problem is there is a great big window in the
7 middle where it looks nice and that's deceptive and
8 people drown, and a lot of people that drowned
9 didn't intend to swim, they were doing wet wading.
10 The Potomac contains a lot of silt load and has got
11 a lot of silica in it and when it's in dry you can
12 walk on the dry finish, it's like walking on
13 sidewalk. When your feet get wet, it's like
14 walking on ice, that's when people fall in,
15 nonswimmers fall in, and they think they're fine
16 and they end up in the water and they're not fine
17 and it's within that window where the river is a
18 large portion of the time. Have we had any deaths?

19 OFFICER OFFER: We had a kayaker at the
20 falls run that got caught.

21 MR. LUNSFORD: But has anybody died up,

1 recently in that section of the river or is that
2 just by the grace of God we haven't had --

3 OFFICER OFFER: As it was explained to
4 me by the grace of God and the kayaker was as it
5 was explained to me, I was trying to get my feet
6 wet on this one, it was explained to me that was a
7 rare occurrence. One of my concerns was, you know,
8 kayaks and safety of certain vessels in there and
9 they said that was an anomaly. Usually the
10 kayakers, people who are doing permitted,
11 activities that are permitted in that area, they
12 aren't the ones that show up as our fatalities.
13 The ones that you just explained -- you explained
14 it much better than I could have, because you have
15 that history.

16 MR. PEPE: Do you have just a ballpark
17 number of how many rescues were performed in that
18 section?

19 OFFICER OFFER: What was it, oh, my God,
20 what was the number they gave?

21 MR. GRANT: I don't recall.

1 OFFICER OFFER: Like 70.

2 MR. GRANT: That's helicopter. The
3 access is horrible.

4 OFFICER OFFER: Like 70 some rescues
5 that they did.

6 THE CHAIR: In the restricted area or
7 nonrestricted or the whole length?

8 OFFICER OFFER: Of the whole length.
9 The aviation section flies that river a minimum of
10 once a day to patrol it so that they can get an
11 idea of what's going on and the activity. National
12 Park Service patrols this area much more
13 efficiently and more frequently than we do with our
14 resources and they're in there constantly trying to
15 get people out, but they're constantly running on
16 calls. I know of four calls that went out this
17 past summer but they have the resources to handle
18 it. Let me explain why we don't have a whole lot
19 of information on that. We do not have vessels, we
20 do not have the training, and we do not have the
21 operators of vessels to handle that kind of water.

1 To do that rescue the standard is this, there is a
2 rescue boat, there is a safety boat for the rescue
3 boat. You think that's sexy? They have a safety
4 boat for the safety boat. So this is the type of
5 environment that we're dealing with. Law
6 enforcement is talking about how do we patrol that,
7 that sector of the river, and I said it's wonderful
8 for us to get in the boat, but who's going to be
9 the safety boat for the law enforcement and who's
10 the safety boat for the safety boat for law
11 enforcement? That's a lot to write ticket. If
12 they go in the water and come out, write them a
13 ticket. If they don't make it, you know, that's
14 what we call a case closed by exception for failing
15 to --

16 THE CHAIR: So is this class 5 white
17 water in here, class 4 white water in here?

18 OFFICER OFFER: I don't know. There is
19 several classifications in this particular area. I
20 have video on my iPhone if anyone is interested, I
21 was taken by the beauty of it, but that water, it

1 was not -- the day I went down there, it was not a
2 bad day. The water level was not really high, but
3 that water was vicious and it was moving and, you
4 know --

5 MR. LUNSFORD: It's class 5.

6 MR. MARSH: People that go in there to
7 swim, they have a good time and then they come out
8 and they don't probably realize there is some kind
9 of risk involved swimming this that kind of water,
10 I'm fairly familiar, if they close that down there
11 where are we going to drive them people to that
12 say, well, we can't swim there, we're gonna go,
13 maybe it's a more dangerous place. Maybe you don't
14 have the answer to that.

15 OFFICER OFFER: I asked that question
16 and --

17 MR. MARSH: Sometimes when you do that
18 you drive them to a more dangerous place and maybe
19 Virginia or Maryland has to fish them out of there.
20 It's a question, not saying it probably isn't a
21 good idea, that's pretty dangerous area there, if

1 you, if you're not a real good swimmer and you
2 don't understand all about that you can get in
3 trouble.

4 OFFICER OFFER: I would be, I will be
5 very honest with you as a body that's reviewing
6 these questions, you know, there's only so much
7 that we're going to be able to do. While I was
8 down there, when I came up off of the overlook
9 trail and started walking back up towards the
10 tavern three bus loads of college kids or whatever
11 they were, they were young folks, I mean, you know,
12 and they came down the trail and I almost went into
13 the canal because they were just massive and
14 pushing everything out of the way, you know,
15 including me and I was like -- I'm dressed like
16 this.

17 THE CHAIR: So in the unrestricted area,
18 in the unrestricted area, so the Natural Park
19 Service only owns on the Maryland side and the
20 other side is owned by private property owners --

21 MR. KLING: No, Maryland owns --

1 THE CHAIR: I know we own to the
2 Virginia shore.

3 MR. KLING: It's on your chart. Feds
4 own along the Maryland side and halfway on the
5 Virginia side.

6 MR. GRANT: There's a single chart, not
7 the one that you're seeing here, there is another
8 one, not the one, it's not part of the PowerPoint.
9 Right here, Bob. That has park regs.

10 MR. JONES: Where it says zone on there,
11 that road is --

12 MR. KLING: That's on the Maryland side.

13 THE CHAIR: We're going to shut it down
14 to these people.

15 MR. LUNSFORD: It's a cliff, they don't
16 go down there.

17 THE CHAIR: I'm there.

18 MR. JONES: Where it says zone A that's
19 the American Legion Bridge.

20 THE CHAIR: Yeah, I know.

21 MR. JONES: That's on both sides.

1 MR. LUNSFORD: Zone A is the old
2 aqueduct dam, the other is the dam at Great Falls.

3 MR. GRANT: A lot of that access is by
4 the National Park Service for rock climbing.

5 THE CHAIR: Say that again, Mike.

6 MR. GRANT: The National Park Service
7 says most of the activity here is people coming in
8 to do rock climbing and the guy said if you don't
9 know the area you can climb down this side of the
10 rock and jump in and you'll probably be okay, if
11 you go this way -- so this is the problem they had.

12 THE CHAIR: I'm struggling with the same
13 thing that Steve is struggling with, so the Natural
14 Park Service would like us to shut down a whole
15 stretch of the river to everything with boating
16 with a safety jacket, life jacket on, what about
17 the people that live on the Virginia side, are they
18 not allowed to use the water at all?

19 MR. LUNSFORD: They don't. There is no
20 piers, there is no dock access, there is no beach
21 access. When I did it years ago Walter Cronkite, I

1 think, owned a house up there. I think he had
2 one -- one of the TV news anchors.

3 MS. ALLISON: It wasn't him at the time.

4 MR. LEVITAN: He's gone anyway.

5 MR. LUNSFORD: They essentially have a
6 view of the river because they're on, they're on
7 very steep vertical embankments and they -- I don't
8 think they interact with the river at all. There
9 is no lawns or there is no access points.

10 THE CHAIR: Why did we not do anything
11 when we did these two restricted parts?

12 MR. LUNSFORD: Two park
13 superintendents -- Joe, this is history --
14 Virginia, Great Falls Park superintendent who
15 was -- Great Falls National Park is part of George
16 Washington Parkway, believe it or not -- and the
17 C&O canal superintendent did not see eye-to-eye on
18 the use of the river, Dick Stanton who was part of
19 the committee and was the Maryland superintendent
20 wanted the river left open with as much access as
21 possible, John Turner who was the Virginia

1 superintendent and who had to send his officers
2 down to effect rescues, he wanted it closed. He
3 was sending his guys out in harms way and Dick's
4 guys were scattered around 180 miles of river and
5 they had tremendous disagreements in C1 and this is
6 what we ended up with. Actually, the part of the
7 original regulation was a registration form if you
8 were going to run the falls you had to sign a form
9 that you recognized that entailed imminent risk of
10 loss of life and that rescue may not be possible,
11 may not be attempted, should you get in there and
12 get in trouble. I think that registration is gone.
13 I think Street did that years ago, but the park
14 superintendents made it clear that the only thing
15 they could do was write you a ticket for an illegal
16 exit from a national park or an illegal entry to
17 the shore if they caught you coming into the shore
18 and they were still mad at you.

19 MR. GRANT: They said that most of the
20 tickets were to fishermen, they said as soon as
21 they see them put a toe in the water they write

1 them a ticket.

2 MR. LUNSFORD: Unless they had a life
3 jacket.

4 MR. GRANT: Of course.

5 MR. PARLIN: Are we trying to protect
6 people from themselves, and I'll take it a step
7 further, and put this in place, we're protecting
8 the rescuers who go in to try to save these idiots
9 and we're protecting the rescuers and that means a
10 lot to me.

11 THE CHAIR: Good point.

12 MR. PEPE: I have a question, I'm not
13 familiar with the area at all, other than going
14 over the bridge at Carderock. Turkey Run Park, is
15 there an access from that side?

16 MR. LUNSFORD: There's a trail that
17 comes down and sometimes I have seen guys carrying
18 tubes down that trail. Where they come out, I
19 don't know. Once you get in the river you're on a
20 one-way ride somewhere, because you're going that
21 way.

1 MR. KLING: To that point, Turkey Run
2 Park has a fair amount of very flat floodplain
3 right alongside of the river, I mean there are
4 picnic areas and ball fields.

5 MR. PEPE: That's what I was wondering.

6 THE CHAIR: So there would be no more
7 wading in that area?

8 MR. LUNSFORD: If we do this, yes.

9 THE CHAIR: So does anybody --

10 MR. KLING: There isn't wading now,
11 that's Park Service --

12 THE CHAIR: National Park Service.

13 MR. SIMON: I have to say you're
14 breaking my heart, that's where I played hooky when
15 I went to school.

16 THE CHAIR: Did you go swimming in
17 there?

18 MR. LUNSFORD: You and me.

19 OFFICER OFFER: I'm glad I didn't know
20 that.

21 THE CHAIR: Does anybody have a motion?

1 MR. PARLIN: I guess the question, so
2 Mike, we're looking for this to be put in for this
3 summer?

4 MR. GRANT: I believe they want to do it
5 emergency as well.

6 OFFICER OFFER: They would like to do it
7 as soon as possible.

8 MR. GRANT: One other thing is this is
9 one of the things, this may send a shock through
10 your system, the Great Falls area is now being used
11 by stand-up paddlers on paddle boards and they're
12 shooting it the same way a kayak would and it's
13 considered a vessel by our COMAR so they are
14 legally shooting down there now and what we're
15 asking if we don't ban them all -- I say we -- what
16 they're asking is if we don't ban them all together
17 is at least make them wear a helmet.

18 MR. LUNSFORD: They have to in the white
19 water regs.

20 MR. GRANT: Not the stand-up paddle
21 boards because they're not in the regs, so to

1 speak, but it's considered a vessel by the Coast
2 Guard.

3 MS. HENNINGER: That's interesting.

4 MR. GRANT: Incredible.

5 THE CHAIR: They would like to us make a
6 recommendation today if we can. Robin.

7 MS. ALLISON: I was hearing fishermen
8 and fishermen seem to be a big group of people that
9 want to, want to be on the water, and I'm wondering
10 if they're wearing a life jacket can they still use
11 the water?

12 MR. GRANT: Yes.

13 MS. ALLISON: In waders and in --

14 MR. GRANT: In that middle zone.

15 MS. ALLISON: And if we restrict the
16 whole thing?

17 MR. GRANT: Yes.

18 THE CHAIR: Yes, they can fish or they
19 can't?

20 MR. GRANT: I believe they can. Now
21 I'm -- let's see.

1 MR. KLING: Recreational use does not
2 include fishing when a US Coast Guard floatation
3 device is worn. You don't need waders.

4 MR. DWYER: Can a swimmer swim with a
5 life jacket?

6 MR. GRANT: No.

7 MR. DWYER: I don't understand the
8 difference on fishing, do you, or wading --

9 MR. GRANT: I'm just reading.

10 MR. KLING: You swim with a life jacket
11 and fishing pole.

12 MR. LUNSFORD: Fishing you have to have
13 a fishing license too. So they write you up for
14 not having a license if you're swimming.

15 MR. KLING: That's a different issue.

16 THE CHAIR: Motion, anybody?

17 MR. MARSH: I'm a little confused. If I
18 go down with a life jacket on and I have a small
19 fishing pole.

20 THE CHAIR: With a fishing license.

21 MR. LUNSFORD: They're going to hold you

1 under water, Coles.

2 MR. MARSH: It's going to be hard on you
3 guys when you kind of look around and say here's
4 this guy and he's got a life jacket and a fishing
5 pole, it might not be standard as you like fishing
6 poles, I might like a little teeny one, and I'm
7 swimming around, and I'm swimming around, I mean --

8 OFFICER OFFER: I think I can go to
9 court and make a case, people who are fishing
10 usually are not in a prone position with a fishing
11 rod in their hand.

12 MR. KLING: Your Honor, I slipped --

13 MR. MARSH: That restricted area is not
14 going to apply to the guy in the waders and a life
15 jacket on, you want to keep all of the swimmers out
16 that are falling off the tube, swimming --

17 MS. HENNINGER: And now paddle boarding.

18 OFFICER OFFER: The issue with paddle
19 boarding is going to require more discussion and
20 research, what have you, but sitting here and
21 watching the nature of this body of water and

1 knowing what normal paddle boarding is I know I'm
2 standing on what turns out to be a styrofoam
3 surfboard that I will get separated from even if
4 I'm tethered to it, I'm going into this rough
5 water. I equate it to the chances of me falling
6 off that board is the same as me going out when
7 it's cloudy and I hear thunder I'm going to get wet
8 as well.

9 MR. DWYER: Make a motion that we make
10 no recommendation. We don't know enough about it,
11 I don't know enough about it to make a clear vote
12 and I don't want to follow the federal government
13 to pass a bill that we don't know nothing about.

14 THE CHAIR: Second? Further discussion?

15 MR. JONES: Second.

16 THE CHAIR: Do we have a second?

17 MR. JONES: I seconded it.

18 MR. MARSH: I guess the question that I
19 have is if I have them here and it's dangerous and
20 I close the river down where they can't swim here
21 and then I move them down here where there is no

1 restriction is it going to be as bad? I don't
2 know --

3 MR. LUNSFORD: I think having worked up
4 in that area they're going to drive up river and go
5 to Pennyfield and Violette's Lock which is not the
6 same class of white water as there is here.

7 THE CHAIR: Would you put the map back
8 up? Where is the class 5 white water?

9 MR. LUNSFORD: Essentially from Great
10 Falls, which is zone A.

11 MR. GRANT: All here (indicating).

12 THE CHAIR: All zone A?

13 MR. LUNSFORD: Potomac River to the
14 Chain Bridge, which is --

15 MR. GRANT: Which is right there -- no.

16 MR. LUNSFORD: You're close.

17 MR. GRANT: Right around Chain Bridge.

18 MR. LUNSFORD: Essentially Great Falls
19 to the D.C., to the D.C. line is class 5 white
20 water. It's not class 5 white water all year, but
21 when there is runoff, like I said, you know,

1 there's flood stage and people recognize that and
2 they stay out of the water and there is low water
3 and people can get away with it and then there is
4 that big window in the middle and those are
5 slippery rocks and I got scars on my shin to prove
6 it.

7 MR. MARSH: Where would they go, these
8 swimmers if you come down and you --

9 MR. LUNSFORD: Going up River Road, you
10 can turn left on Potomac and go to Great Falls or
11 you can keep going up and go past Swain's Lock and
12 Pennyfield's Lock and Violette's Lock and up to
13 Riley's, those are the canals on the Maryland side
14 and they all offer water access, you know, still
15 federal park property, the fishing is not quite as
16 good because this area gets full of pressure and
17 the guys that know how to fish do well on Walleyes.

18 MR. MARSH: Down a little way and they
19 can swim.

20 MR. LUNSFORD: Go up river another three
21 or four miles and it's safer and got many of the

1 same amenities except the visitor center.

2 THE CHAIR: Let's take a vote on Russ'
3 motion and second by anyone and see if we have come
4 to any consensus at all. Russ, do you want to
5 repeat?

6 MR. DWYER: We not make a recommendation
7 until we educate ourselves a little more on where
8 we're going.

9 MR. LUNSFORD: Just a real quick
10 discussion since this is going in as an emergency,
11 if we take the position of no action, which I think
12 is was Russ is saying, we have 190 days to
13 individually go and visit Great Falls and acquaint
14 yourself with what it looks like and then when the
15 regulation comes back to us for, as a permanent reg
16 with a tweaking that this gets we'll get to vote on
17 it again.

18 MR. DWYER: I'm not one way or the
19 other, I just don't know which way to vote.

20 MR. PARLIN: Point of clarification,
21 when you say make no change to it, you're saying

1 allow it go in place for 180 days emergency and
2 then we come back for the regular way later; is
3 that what you intended with your motion?

4 MR. DWYER: Not really, but I
5 understand.

6 MR. PARLIN: His motion was to not enact
7 this at all.

8 MR. DWYER: I can amend.

9 MR. LUNSFORD: No objection to
10 proceeding.

11 MR. DWYER: Second.

12 THE CHAIR: Steve, do you have any --

13 MR. PARLIN: No objection to proceeding
14 with the 180 days.

15 MR. LUNSFORD: I thought that's what he
16 said and I apologize if I got it wrong.

17 MR. DWYER: That's fine.

18 MR. JONES: Second.

19 MR. PARLIN: Thank you.

20 MR. KLING: While I appreciate Chris'
21 concern for the rescue people, I do not support,

1 I'm not in support of imposing -- rescuing people,
2 or -- no, of imposing regulations to make
3 enforcement easier, I don't think that's our job.
4 I'm not -- I guess I don't see the need. This has
5 been this way for a long time and there is no
6 indication that anything changed.

7 MR. O'MALLEY: I think it's important --
8 I apologize I had to step out and take a phone
9 call -- you may have talked about this while I was
10 out. The state of Maryland is held liable for this
11 river so if someone gets hurt or dies they can sue
12 us and they have sued us. Last year we, there was
13 a PWC case in which the state of Maryland had to
14 pay a family, it was a significant amount of money,
15 so even though they're entering the river from Park
16 Service land and even though Louis' hydrographic
17 team have designed signs and placed them after a
18 long, drawn-out negotiation period with the
19 National Park Service as to where you can put
20 signs -- you can't dig a hole because it's
21 historic, you can't do this and that -- we put

1 signs -- they won't let us cut branches that
2 obscure the signs that are there because you're,
3 it's a natural resource. So even though they're
4 leaving federally owned lands and in this case they
5 went over a dam that's owned by the Army Corp that
6 is leased to a power company, the state of
7 Maryland, all of us, are paying the families when
8 something bad happens to them. So are we
9 protecting people from themselves? I think it's an
10 impossible task having tried it for 31 years but
11 nonetheless we have to do something and that
12 something has to be in the best interest of the
13 state of Maryland and in the best interest of the
14 people trying to enforce it, and I wanted to say
15 thank you to Chris for being mindful of first
16 responders because people like young kids that used
17 to drive boats and people like Joe have to go out
18 and try to save these people who are not taking the
19 proper precautions for themselves so there is
20 multiple factors here and I stood up to say we're
21 responsible for that river and got carried away,

1 but that's something that you have to keep in mind.
2 The state of Maryland is responsible for that
3 river, not Virginia, not West Virginia, state of
4 Maryland.

5 MR. MARSH: Good point.

6 MR. KLING: Philosophically, I
7 appreciate what you say and it has a nice emotional
8 ring, but I haven't heard anything that suggests
9 there is a problem on the non-restricted part of
10 the river and what you're describing is somebody
11 going over the dam, it's clearly the restricted
12 part of river and we're responsible for all of the
13 waters of state, an extension of something
14 ultimately that's going into that logic and unless
15 you shut down all of the water and we protect the
16 state even better. They're legitimate points
17 there, but when you drill down to the specifics of
18 this situation, why is this an emergency? You
19 know, I have heard no description of why this is an
20 emergency.

21 MR. GRANT: Well, may I?

1 THE CHAIR: Yes, please.

2 MR. GRANT: The original request from
3 NPS was to produce a document needed for handout or
4 online that depicts the areas of use and nonuse and
5 then they said well, why don't we shut it down all
6 together, that will solve the problem, so that
7 option still stands. All they're requesting is
8 that we shut the whole thing down. We don't have
9 to do that. I'm just sharing what NPS originally
10 wanted.

11 MR. LUNSFORD: Can we table the motion
12 and go back and discuss the first proposal from the
13 Park Service that asked us to establish a diagram
14 depicting the prohibited and restricted areas? We
15 didn't get to discuss that very much before we came
16 up with a motion, so if we can revisit that a
17 little bit. It seems to me that that's the least
18 restrictive thing that we can do and Louis' not
19 being able to post signs, been there and done that,
20 we gave the Park Service handouts in English and
21 Spanish, now it would be English, Spanish and

1 Vietnamese.

2 OFFICER OFFER: I want to state this is
3 only a small portion of our efforts to try and
4 address the issue of safety on the river. National
5 Park Service is working with DNR and the local
6 jurisdiction, PIOs, they're trying to come up with
7 public information campaign so that people will
8 become aware. We're also trying to work on
9 programs with volunteer groups, such as our reserve
10 officers and the friends of the National Park
11 Service, that will come out and they will saturate
12 the area to try and educate the visitors and let
13 them know of the dangers that are around which is
14 face-to-face kind of thing, and the original
15 request was part of that entire matrix of
16 information, information, information.

17 MR. PEPE: Following along the lines of
18 the either/or with the National Park Service
19 request since, and I include myself in this, I know
20 nothing about this area of the river, never been
21 there, could we do the least restrictive of the two

1 items and suggest the diagram depicting a
2 prohibited area that would give us time to go up
3 there and get better acquainted and get more
4 information because I have nothing to make any
5 decisions on myself.

6 THE CHAIR: What would that be --

7 MR. LUNSFORD: Original request that we
8 pick something online and for handout that would
9 describe the prohibited and restricted areas and I
10 would almost be willing to bet if you fish around
11 long enough you will find those in old format
12 somewhere, probably WordStar.

13 MR. GRANT: Probably cut and paste with
14 tape.

15 THE CHAIR: Does that further restrict
16 between zone A and B?

17 MR. LUNSFORD: It doesn't restrict, what
18 it does is the Park Service, apparently the Park
19 Service requested a diagram depicting --

20 MR. GRANT: All they want is basically
21 that.

1 THE CHAIR: All they want is that?

2 MR. GRANT: That's what they want. So a
3 person can go online and see where they can and
4 can't go and why and/or a handout or online.

5 THE CHAIR: So it won't say what the
6 Park Service really wants is nobody swimming.

7 MR. GRANT: People will be allowed to do
8 what they have done, it will probably be if they
9 know, if you do, this is what's going to happen,
10 either legally or danger.

11 MR. MARSH: They can still go with the
12 proposal, they can still go.

13 MR. GRANT: Nothing changes.

14 MR. MARSH: You're not going to get a
15 ticket or be able to cite them for being there.

16 MR. GRANT: If they follow the rules
17 they won't be cited.

18 MR. MARSH: You can go and swim, you got
19 a life jacket, am I getting this right, and are
20 aware of the danger?

21 THE CHAIR: I think between zone A and

1 zone B you can't get into the water from the Park
2 Service land.

3 MR. MARSH: A and B.

4 MR. BUSH: Legally, you can't.

5 THE CHAIR: There is nothing that says
6 you can't swim there.

7 MR. LUNSFORD: Right.

8 MR. KLING: Fishing with a life jacket.

9 THE CHAIR: And a license.

10 MR. KLING: And a license, and a Popeil
11 Pocket Fisherman.

12 MR. GRANT: Restricted areas are up
13 here, that's restricted and this is restricted,
14 there is no regulation in the middle (indicating).

15 MR. LUNSFORD: Not restricted, they're
16 prohibited.

17 MR. GRANT: No. Prohibited is above the
18 dam for two hundred yards -- you can't be in there
19 no matter what.

20 THE CHAIR: I share John's perspective
21 on this. I just -- never been there and don't know

1 what it looks like. I feel ill-prepared to make a
2 wise decision.

3 MR. PEPE: I have to go along with what
4 Steve said, I haven't heard any imminent safety
5 danger, we don't have anything to quantify why
6 they're asking us to shut this area down.

7 MR. LEVITAN: Well, I have think we have
8 to give some weight to what the Park Service wants
9 and the DNR wants. I mean, I don't think that they
10 just come up with this idea to make things easier
11 for themselves.

12 THE CHAIR: I'm sorry, Kathy.

13 MS. SMITH: I would agree with that and
14 also what we've just heard from NRP, I think I'm,
15 I'm persuaded just by reading the Washington Post,
16 you know, and the number of fishermen that I have
17 seen swept, even though they would be allowed to be
18 doing that, but there have been a lot, you know. I
19 mean I know the area a little bit just because as a
20 hiker and I don't know -- I mean I would, I would
21 tend to listen to the NRP on this myself and the

1 only thing I didn't like that you said was that it
2 was just for consistency and regulatory purposes
3 that the Natural Park Service was requesting this,
4 that was like your opener and that kind of puts me
5 in your categories which is why regulate for
6 regulation's sake, but on the other side of it I
7 thought you guys really offered both strong
8 arguments. I mean I don't know that I'm going to
9 know more by going out there again. I have seen
10 the area, I know the area, it's like where white
11 water kayakers practice, that's like nationally
12 ranked for kayakers, so I don't know, it seems like
13 dangerous for swimming.

14 THE CHAIR: I have kayaked classified
15 white water in Alaska, you just go and kayak, you
16 fall in and you get out, you get back in your boat,
17 your kayak, you do what you're going to do, that's
18 why I'm struggling mightily to say why would we do
19 this here.

20 MR. LUNSFORD: Kayaking wouldn't be
21 affected by this, you can still kayak.

1 THE CHAIR: We had to fall out of the
2 kayak and demonstrate that we can get to --

3 MR. LUNSFORD: You were wearing a PFD.

4 MR. GRANT: Yeah.

5 MR. LUNSFORD: People are not here,
6 that's the problem.

7 THE CHAIR: Even if they're wearing a
8 PFD, we can't let them swim.

9 MR. LUNSFORD: Not swim.

10 THE CHAIR: The people don't get to go
11 in the water here, period, unless they're in a
12 vessel with a vest on.

13 OFFICER OFFER: If I may, ma'am, you
14 make a very, very good point, you're a kayaker, you
15 have a vessel, you're wearing safety equipment, and
16 as one that's involved in white water activity you
17 understand the nature of the water, you understand
18 that there are certain things that you have to do
19 with the water in order to survive, not only that
20 you have to demonstrate that you have those skills,
21 and keeping in context what you're talking about at

1 this moment is silent basically. What I would take
2 your thought and I would go a little bit further.
3 I'm coming to this park and I like the water and I
4 just want to get in and have some fun, I have never
5 been in a kayak, I don't have any kind of white
6 water training, I don't have a PFD, I'm not wearing
7 a helmet, I don't think it's really necessary for
8 me to think a whole lot about how to get from point
9 A to point B in the water, you just swim, right.
10 Isn't that what you do? And that's what, that's
11 the prohibited area, swimming part. And as a
12 kayaker I believe that you understand the
13 difference between the person that gets in that
14 water and respects it verses a person that does not
15 understand the water and doesn't respect it. I
16 just wanted to share that.

17 THE CHAIR: You make a good point and
18 the statistics again, what has happened to people
19 in that area between zone A and zone B?

20 OFFICER OFFER: I mean we talked about
21 statistics loosely. Law enforcement has a meeting

1 next Friday, I hear this body going back and forth,
2 tangible, quantitative, these things that we all
3 need and I understand that, I'm going to drop and
4 e-mail to the people that know and they're going to
5 give me those statistics and I'll be glad to
6 forward to this body so this discussion can
7 continue and then you will have the assurance that
8 you're making the best decision possible in the
9 zone as my good friend passionately argued.

10 MR. PARLIN: So obviously we're kind of
11 all on the fence, a little to the left or the right
12 of the fence, I guess I'm kind of leaning towards
13 the side with the Park Service is asking for, NRP
14 is supporting it, and it is just an emergency
15 regulation so if it only does go into effect for
16 180 days it gives us time to come back, I'm hoping
17 to come back with a permanent regulation after this
18 allows us to study it. My point is let's give them
19 some of what they're asking for and come back and
20 look at this.

21 THE CHAIR: So back to what Russ offered

1 up.

2 MR. DWYER: Let me ask one more question
3 of the officer. If a restriction goes in and it's
4 still legal for kayaking there, what's going to
5 stop the individual that walks up there and says
6 the same thing, that they want to go out and swim,
7 how is that -- the only difference is going to be
8 that you can give him a ticket; is that correct?

9 OFFICER OFFER: Actually, Russ, when
10 that person steps in I legally don't have any right
11 to approach that individual and say a word to him
12 right now about what he's doing, you know, anymore
13 than I would have, you know, a right as a citizen
14 to say, you know, I don't like the way you're
15 raising your kid. I may know something in my
16 personal life, but as a law enforcement officer I
17 don't have a right to basically what we call in
18 training is to accost any citizen for anything that
19 I think may not be safe but it's legal. We, you
20 know, that's the freedoms that we enjoy.

21 MR. DWYER: How is he going to know that

1 if we don't post a sign?

2 OFFICER OFFER: You can't post a sign
3 swimming prohibited if there is no regulation.

4 MR. DWYER: I thought there was --

5 MR. O'MALLEY: We can post signs, but
6 it's quite a process to get to that point.

7 MR. DWYER: I'm trying to get the whole
8 thing clear, I don't know which way to vote.

9 MR. O'MALLEY: I understand, but also
10 remember this is sort of low hanging fruit in terms
11 of people can still do what they are going to do
12 with kayaks and boats and other things, we're
13 trying to help that one person that says whoa, this
14 looks wonderful, I'm going to go swimming and then
15 gets hurt or drowns.

16 MR. DWYER: As long as the officer sees
17 him and gives him a ticket and lets him know.

18 MR. O'MALLEY: Right. Now, the other
19 part of that is how do you quantify that, is it one
20 injury, one death acceptable or unacceptable? To
21 me it's unacceptable, when we can post a regulation

1 and some signs and still allow the vast majority of
2 the users of the river to enjoy the river and try
3 and save that one person that's going to do the
4 wrong thing based on just the ignorance of the
5 conditions that existed. I have been on this river
6 before and on the surface it looked beautiful, but
7 if you look closely there is a current that's
8 carrying through there and unless you're a very
9 gifted swimmer it's going to take you with it, so
10 that's all we're trying to avoid, Russ.

11 THE CHAIR: Bob.

12 MR. LUNSFORD: Mark, you said something
13 that just tweaked my interest without being too
14 absent, but if we promulgate, or if we recommend a
15 regulation change for this area we don't have any
16 more ability to post signage for that regulation
17 change than we do to signage that would warn people
18 about the drowning machine in that area, which was
19 what it was called in that Potomac River safety
20 report, signage becomes a major problem. Both
21 sides of the river is pointed out and regulatory

1 signs are not going to be any easier to get posted
2 than warning signs so I would suggest going this
3 summer with what the Park Service had originally
4 requested and that's that we do an educational
5 campaign, give the Park Service some signs and
6 again there are some, there are some old signs
7 around, and say post them and if the Park Service
8 won't post them and the Park Service won't allow us
9 to post them then maybe the Park Service is looking
10 to just make their life easier and make Joe's job
11 harder.

12 MR. O'MALLEY: As you're aware, I'm sure
13 the Park Service does a lot online so that would be
14 another option, to put it online. Now, you know,
15 we can argue this until 5 o'clock tonight but we
16 have to give them that ability and give Joe the
17 ability because without it we have not moved
18 forward at all.

19 THE CHAIR: Go ahead, Bob.

20 MR. LUNSFORD: Written in the old
21 Potomac River regs there is the last reg, 05,

1 failure to comply with a lawful order. If you give
2 somebody, as I understood the way this was written,
3 if you give somebody a reasonable directive, a
4 reasonable order to leave the water, because
5 they're in an unsafe circumstance which would cause
6 them to be in an unsafe circumstance should you
7 have to effect rescue they have to comply with
8 that, that's what the last regulation was supposed
9 to say.

10 OFFICER OFFER: When was the last time
11 you went into district court for a natural resource
12 violation and stood before a bench and argued a
13 black and white regulation regarding Natural
14 Resources? I'm not saying that to be smart, Bob,
15 because I know that you understand our plight.
16 There was an article in the Washington Post some
17 years ago and I couldn't actually believe it was
18 written and I was extremely offended as an agent
19 for the state and as a police officer and it
20 basically said if you're going to poach wildlife go
21 to Maryland because there aren't enough Natural

1 Resources Police officers to catch you and if they
2 catch you and you get to court they will let you
3 go.

4 THE CHAIR: That's terrible. Okay. So
5 back to -- so we have a motion on the floor, and it
6 was amended to be no objection to going ahead with
7 I think prohibiting this area for 180 days, or
8 prohibiting or restricting for --

9 MR. DWYER: I'm going to remove my
10 motion.

11 MR. JONES: Second.

12 MR. DWYER: Start all over.

13 THE CHAIR: We have nothing on the
14 floor.

15 MR. LUNSFORD: I'll try a motion that we
16 assist the staff of the boating administration in
17 developing informational material that would
18 describe to the public and satisfy the National
19 Park Service original request that we warn people
20 of dangers of the this section of the river and
21 that we continue to watch over this summer season

1 the activity of the area and I would encourage all
2 of us to visit the area as part of a motion and
3 revisit this next fall to see whether or not
4 further restrictions are necessary next year in the
5 way of restricting swimming and other use of the
6 waterways in this area.

7 MR. DWYER: That's what my motion
8 originally was.

9 THE CHAIR: Second it.

10 MR. DWYER: Second.

11 MR. MARSH: So we're not giving them --

12 MR. LUNSFORD: Just developing
13 information, a pamphlet and signage.

14 MR. MARSH: Website and whatever.

15 MR. LUNSFORD: And provide it to the
16 National Park Service and let them post it.

17 MR. MARSH: Do you -- that will give you
18 tools if I'm swimming that you would like to have
19 so that you can, your officers could go and say
20 look, you can't swim here.

21 MR. BUSH: Kicking the ball down the

1 road. I would suggest that we go ahead and --

2 THE CHAIR: Let's take a vote and see
3 where we are. Okay. So anymore discussion?

4 MR. BUSH: Well, I'm getting ready to
5 say that I would suggest to the board to consider
6 the fact that we would prohibit swimming in that
7 area if we can save one life we've done a good job
8 today, that's the way I see it, not restrict the
9 river, still kayak, whatever they want to.

10 THE CHAIR: Fish, kayak.

11 MR. MARSH: Yes.

12 MR. BUSH: That's what I would propose.

13 THE CHAIR: Any further discussion?

14 MR. SIMON: Who's going to protect, keep
15 an eye to keep the kids off of the river, you know,
16 in that area, who's going to patrol it?

17 OFFICER OFFER: National Park Service,
18 Montgomery County Police and Natural Resources and
19 Montgomery County fire board assists with the
20 equipment that they have in those instances where
21 law enforcement wants to get on the water, so we

1 have four agencies that are serious about this,
2 this issue, and have come together to rejuvenate
3 that effort and to better coordinate our efforts.

4 MR. MARSH: So Park Service if they have
5 their wishes it would sort of -- I mean I got the
6 message in a sense that says, well, put up signs,
7 why don't we just close the river, was that kind of
8 comment from Park Service?

9 OFFICER OFFER: That sounds rather,
10 rather heavier than the weight of the
11 recommendations, and the recommendations are close
12 that whole area to swimming, not changing any other
13 activities, just saying that you cannot swim in
14 that doughnut hole.

15 THE CHAIR: Chris.

16 MR. PARLIN: I still fall on the other
17 side of the fence in that I, I kind of agree with
18 the sense of urgency that, you know, I've seen it
19 over and over and a first responder. You have
20 certain roads we know that flood and we keep
21 telling people to stop going down the road and we

1 put up barricades and they go around and they get
2 stuck and we have to go, we can't say no, we have
3 to go out and get them. They have identified this
4 is a, to use Joe's terms, a drowning machine. I
5 don't see any problem with shutting it down and see
6 where the chips fall after that and it's, again,
7 only temporarily that we're shutting it down, but
8 let's see what effect that has.

9 MR. LEVITAN: I agree with Chris. I
10 think you should put that in a motion, Chris.

11 MR. PARLIN: We have a motion on the
12 table.

13 THE CHAIR: So any further discussion on
14 this before we vote on the motion?

15 MR. JONES: Well, yeah, because I think
16 that's an area where competitive kayakers --

17 MR. LUNSFORD: It doesn't affect them.

18 THE CHAIR: The only thing is swimming.

19 MR. BUSH: I concur, and close it to
20 swimming.

21 THE CHAIR: To close it to swimming.

1 MR. DWYER: Why didn't we say that in
2 the beginning, clarify it just in the very
3 beginning of this?

4 MR. KLING: You know, this is not the
5 regulation, this is a summary. When I read it
6 they're saying we don't want you doing anything on
7 this part of the river unless you're wearing a life
8 jacket, that's what they say.

9 MS. HENNINGER: That's what he's
10 pointing out.

11 MR. KLING: When you look at the
12 definitions they're basically saying we want you to
13 wear a life jacket because they say you can't
14 tube --

15 THE CHAIR: At all.

16 MR. KLING: Well, I think a raft is a
17 boat, it's a vessel. You're hard pressed not to
18 have a raft as a vessel.

19 THE CHAIR: Maybe, Bob, you can restate
20 the motion, or just say it again, what you said
21 before.

1 MR. LUNSFORD: My motion was that we
2 recommended to the department -- backup one -- that
3 the top part of that slide there (indicating) would
4 be what we recommended we do for this season. That
5 we develop a diagram, follow with an informational
6 campaign to warn people of the dangers of that
7 section of the river and if we need to revisit it
8 again in the fall that the committee remain open to
9 that.

10 THE CHAIR: Okay. So we have had
11 discussion on that, so all in favor of that let's
12 see a show of hands.

13 (Vote taken.)

14 MR. GRANT: Seven.

15 THE CHAIR: Okay. All opposed to that?

16 (Vote taken.)

17 MR. GRANT: Seven, eight. Do that
18 again.

19 (Vote taken).

20 THE CHAIR: I vote in favor of it.

21 MR. KLING: You can make it a tie, you

1 can make it a tie.

2 MR. GRANT: You can and then --

3 THE CHAIR: I can break a tie and not
4 make a tie.

5 MR. KLING. You can do that also. It
6 doesn't effect the outcome.

7 THE CHAIR: Motion didn't pass. Chris,
8 go ahead.

9 MR. PARLIN: I would like to make a
10 motion to drop the second request there from the
11 National Park Service to close the entire river
12 from zone A to zone B for swimming for the
13 emergency request for 180 days.

14 MR. BUSH: Second.

15 MR. LEVITAN: Is that a motion? Second.

16 THE CHAIR: Discussion?

17 MS. ALLISON: That's the same thing.

18 THE CHAIR: Take a vote. All of those
19 in favor of the motion?

20 (Vote taken.)

21 MR. GRANT: 13. I think it passed.

1 THE CHAIR: Opposed to?

2 (Vote taken.)

3 THE CHAIR: 2.

4 MR. MARSH: We'll revisit it.

5 THE CHAIR: Okay.

6 MR. GRANT: What we're saying -- my
7 question is we are going to go forth with closing
8 the swimming, emergency reg 180 days, re-evaluate
9 in the fall?

10 THE CHAIR: And it would be nice if we
11 can get data.

12 MR. GRANT: Data is coming from Officer
13 Offer.

14 THE CHAIR: Data at the end of the
15 summer as well.

16 OFFICER OFFER: We already discussed
17 that we're going to have to keep information
18 flowing to this body if they want, if they want to
19 keep asking questions of Maryland, they need to be
20 informed though.

21 THE CHAIR: Thanks a lot.

1 MR. KLING: I think the critical data is
2 not aggregate data from above the first dam to
3 below the second dam, it's the slice in the middle.

4 OFFICER OFFER: That's exactly how it's
5 framed. Everything that we get will be framed too,
6 and if I get any data that's outside of it, I'll
7 get that information, but when we get the
8 information we're going to give you information
9 that's going to the question.

10 THE CHAIR: That sounds great. Okay.

11 MR. NICKEL; I have to get rolling.

12 (Mr. Nickel leaves the hearing.)

13 (Discussion held off the record.)

14 MR. GRANT: We're going to skip down to
15 D, Upper South River, this is a request that came
16 in from the citizen that's requesting a six knot
17 all time in that zone above the Riva Bridge. This
18 is the Riva Bridge, this is the area right here,
19 Broad Creek is right here (indicating). This is
20 currently part of the normal 35 during the day, 25
21 at night, 35/25. They want it closed all of the

1 time. When I called the person to discuss it with
2 her and explain the unintended consequence it would
3 affect, she and all of her neighbors, meaning no
4 waterskiing and the kids rafting, et cetera, et
5 cetera, she said we're going to go back to the
6 community association and talk about it so let's
7 let it lie. That's the most recent, and that came
8 in by Express Mail at 3 o'clock on the 15th of
9 April. So right now that's dead in the water so to
10 speak, but I wanted you to be aware of it.

11 THE CHAIR: Withdrawing it.

12 MR. LUNSFORD: If she comes back in and
13 said the community association wanted to proceed
14 you've got it in the hopper for this year.

15 MR. GRANT: It will be, I mean it's --

16 MR. LUNSFORD: If the petitioner comes
17 back and says I want to withdraw, you'll let us
18 know.

19 MR. GRANT: Of course, that's what I
20 said.

21 THE CHAIR: Okay. That was quick,

1 thanks. Next one is Severn River Management Plan,
2 as Louis has been redoing all of the -- should be
3 in your list as well. Okay. There were a few
4 things that were discovered, three different items
5 before we go forward here, and they pertain to
6 boating's participation in performance tests and
7 inspections and issuing decals for waterskiing
8 boats in closed ski areas -- sit there and be
9 quiet -- Mr. Lunsford showed up today with all of
10 the documentation necessary for anyone to inspect a
11 watercraft making it suitable to be used in a
12 closed ski course. The question is is that
13 something that we should be doing, is that
14 something that somebody else should be doing, who
15 has expertise to do that? I don't personally, but
16 that doesn't mean I'm not going to do it.

17 MR. LUNSFORD: I did it, you can do it.

18 MR. GRANT: So I'm just --

19 THE CHAIR: Getting the job done.

20 MS. MOANEY: Just take it off.

21 MR. GRANT: Just take it off. Off of

1 the --

2 MR. LUNSFORD: People on the creek
3 wouldn't like you very much.

4 MR. MARSH: Yeah, we don't --

5 MR. LUNSFORD: I gave you the checklist
6 and --

7 MR. GRANT: Well, I'm sorry, I'm on page
8 6, page 6, inspection decal.

9 MS. HENNINGER: Next to the last.

10 MR. GRANT: Page 6, on the bottom of
11 page 6. Number 6, under H, inspection decal. And
12 Jeannine, I'm sorry, I really need to you
13 elaborate.

14 MS. MOANEY: You need to give me a
15 report.

16 (Pause for document examination.)

17 MS. MOANEY: Natural Resource Police
18 should be here because they would be the ones to do
19 the inspections. Boating Services don't do that.

20 MR. DWYER: Boating Services did do
21 that.

1 MS. MOANEY: Yeah, back in the day, but
2 that was --

3 MR. DWYER: Are you saying I'm old?

4 MS. MOANEY: It's a new day.

5 MR. GRANT: It was more recently done by
6 a retired NRP officer.

7 MR. LUNSFORD: That was my understanding
8 last time one was done.

9 MR. GRANT: What was his name, worked
10 with boating?

11 MR. LUNSFORD: Dave Street.

12 MR. GRANT: No, no. The gentleman,
13 elderly gentleman?

14 THE CHAIR: Dorsey.

15 MR. LEVITAN: He passed away.

16 MR. GRANT: He didn't do it.

17 MR. LUNSFORD: He issued the decals.

18 MR. GRANT: The decals were issued
19 without inspection.

20 MR. LUNSFORD: Just the last time a
21 decal was, to my knowledge, unless you have done

1 one recently, a decal was issued, a guy called me
2 up and he gave me a description of the boat and I
3 called Russ and said will that boat pass the test
4 and he said yeah, that's a performance ski boat. I
5 sent him a decal. And you can't get me now, Mark,
6 I don't work for you anymore.

7 MR. GRANT: That's just it, we're trying
8 to avoid somebody going into a closed ski course
9 with a 17 foot Whaler, you want a certified vessel.

10 MR. DWYER: That's why it was done,
11 because you didn't want to upset the neighbors at
12 Maynadier, they have big boats in there. When it
13 was compulsory, we had boats that were 25 feet
14 long, twin engines, trying to go through the area.

15 THE CHAIR: Was this a problem?

16 MR. LUNSFORD: It was.

17 THE CHAIR: I live at the ski course on
18 the Severn River and there is no one on the course
19 unless it's a competition ski boat.

20 MR. DWYER: It was hot press then and it
21 was big news.

1 MR. GRANT: Well, it does happen on
2 Maynadier a lot. You come in and you have quiet
3 water and they shoot it all of the time, and even
4 though it's a six knot zone in there unless you're
5 a ski boat, so if you want to continue to do it the
6 way that you been doing it just qualifying
7 through --

8 THE CHAIR: I'm asking if there's a
9 problem that needs solving.

10 MR. LUNSFORD: You talk to the people at
11 Maynadier.

12 MS. MOANEY: Keep it or take it out? If
13 we keep it, Mr. Lunsford, are you going to inspect,
14 sir?

15 MR. LUNSFORD: Am I going to get paid?

16 MR. GRANT: We're going to skip over the
17 next one which is the same thing and we're going to
18 go with the next thing --

19 MS. MORROW: In response to your
20 question, is there a problem from the state of
21 Maryland's point of view, if it says we're going to

1 inspect the boats and we're not going to inspect
2 the boats someone is going to sue us and we're
3 supposed to be doing something that we're not.

4 MR. KLING: I'm expecting this is going
5 to, is not going to pass if someone --

6 MR. LUNSFORD: Takes about 20 minutes to
7 set up the buoys, to have the correct distance.

8 MR. DWYER: I think just like your last
9 call, there is a tournament type ski boat it should
10 automatically qualify for the sticker. The only
11 time they need to be inspected is if it's not a
12 performance ski boat and somebody wants to use the
13 ski course call up 222 and say here's what's I
14 want, to see if my boat will qualify. We did have
15 Whalers that qualified for the course.

16 MR. LUNSFORD: Did we?

17 MR. DWYER: Yes.

18 MR. LUNSFORD: Here a description or a
19 diagram of the course that the boats had to run,
20 they had to semicircle at speed and a figure eight
21 at 26 miles an hour, there is a noise vessel

1 reading at 26 knots at a hundred feet that they had
2 to comply with. There is all of the things here in
3 the regs, but --

4 MR. DWYER: The wake.

5 MR. LUNSFORD: The wake was measured,
6 yeah. The wake measurement was item 15, but we've
7 got all of that.

8 MR. GRANT: Standards for that are in
9 that file as well, how big a wake can be and all of
10 that?

11 MR. LUNSFORD: Yeah, somewhere.

12 MR. GRANT: I don't have that. I have
13 not seen any of that.

14 MR. LUNSFORD: I offered it to you a
15 month ago and you said bring it to the meeting.

16 THE CHAIR: It's mine now, sorry.

17 MR. PEPE: How many boats does this
18 involve for an annual?

19 THE CHAIR: I don't know.

20 MR. GRANT: If I may, it involves boats
21 like 35 foot Sea Rays that come through the course

1 with the kids on a tube.

2 MR. PEPE: No. I mean how many boats
3 call for this inspection and detail?

4 MS. MOANEY: Something like 18 or
5 something.

6 THE CHAIR: 18, 1-8, per year?

7 MS. MOANEY: Something like that.

8 MR. GRANT: Are those renewals or new
9 boats?

10 MS. MOANEY: Renewals.

11 MR. GRANT: When was the last time you
12 issued a new one, do you remember?

13 MS. MOANEY: Maybe last year, something
14 like that, but not in year.

15 MR. DWYER: Once the boat is inspected,
16 it doesn't have to be inspected again. You just
17 get a new sticker unless somebody complains about
18 the muffler fell off or something like that.

19 MR. PARLIN: Just reading the thing,
20 number 5 under G5 it says, vessel, all required
21 equipment and registration cards shall be available

1 for inspection by the department. And I'm
2 wondering if you can change the wording of it, you
3 know, if requested or if the department deems
4 necessary inspection and performance tests may be
5 arranged by contacting Department of Natural
6 Resources, so I think if you put it in there if
7 there's a question about the boat, if it's Ski
8 Nautique that boat was built to meet the
9 requirements, and if somebody comes in and says I
10 built bought a 18 foot Wellcraft and I think my
11 boat can perform like a ski boat, but maybe not
12 like a Ski Nautique, you should put it in there,
13 may or may not be inspected --

14 MR. JONES: It says that.

15 MR. PARLIN: That's why I'm wondering.

16 THE CHAIR: Is there a positive
17 requirement, is there a positive requirement to
18 inspect the boat? It doesn't look like it from the
19 regs.

20 MS. MOANEY: I mean my question is this,
21 who is going to inspect it?

1 MR. GRANT: I am.

2 MS. MOANEY: The first time.

3 MR. GRANT: Okay.

4 THE CHAIR: There is still a question.

5 MR. GRANT: You can come along.

6 THE CHAIR: So folks, can I just ask
7 another question, is there a requirement to inspect
8 the boat even the first time?

9 MR. GRANT: I don't believe so.

10 MR. LUNSFORD: No, it says may, not
11 shall.

12 MR. KLING: I think the idea is if
13 somebody doesn't have a certified ski boat, a
14 competition ski boat, and you say no, then there is
15 an obligation to inspect, to evaluate that boat.

16 MR. GRANT: Because the NRP depends on
17 that sticker because if they're running the course
18 they're allowed in that course, and number 5 it
19 says it shall be available, that's kind of like,
20 you know, the Coast Guard pulls you over and says
21 show me your flares and PFD, you shall have

1 available, I mean, and if there is somebody with a
2 35 foot whatever doing a pull through --

3 MR. DWYER: Purpose of the sticker was
4 that DNR knew that boat was okay.

5 MR. KLING: If somebody is going through
6 with a tube --

7 MR. DWYER: A boat can't go through
8 there with a tube with a sticker.

9 MR. KLING: What if it's doing a slalom?

10 THE CHAIR: Louis says for Sunrise Beach
11 there is a requirement to demonstrate.

12 MR. GRANT: What page is that, page 7?

13 MR. JONES: What number?

14 THE CHAIR: 1 -- no, that's not it.

15 MR. JONES: That's what it's supposed to
16 have.

17 MR. KLING: Has to have a decal.

18 MR. JONES: C says it.

19 MR. GRANT: It doesn't say it has to be
20 inspected.

21 MS. ALLISON: How about C? No, that's

1 Sunrise Beach.

2 MR. GRANT: But like you said if the
3 person said I have a Ski Nautique, give me a
4 registration, Ski Nautique, you got one --

5 MR. JONES: So you have this covered
6 then?

7 MR. GRANT: Sounds like it. Last but --

8 MS. ALLISON: I have a question for you,
9 if I called Department of Natural Resources and
10 this afternoon I just went out and bought a new Ski
11 Nautique and I call the main office number,
12 registration, how long will it take me to find
13 somebody that knows the answer to this question?

14 MR. GRANT: You would be sent to boating
15 or licensing and registration.

16 MS. ALLISON: I'm already in licensing
17 and registration.

18 MR. GRANT: They would send you to
19 boating I would hope, but I cannot guarantee that.

20 MS. ALLISON: Having been on hold
21 multiple times --

1 MR. GRANT: You would be surprised the
2 calls I get.

3 MS. ALLISON: I actually like you guys.

4 MR. GRANT: Thank you.

5 MR. KLING: Looking at the Sunrise Beach
6 requirement it seems what is specific to this is
7 the 6 inch wake limitation measurement from shore,
8 I mean that, that's a site specific. It doesn't
9 say for the other, it just says -- for Sunrise
10 Beach is a little more confined.

11 MR. DWYER: No, Maynadier is more
12 confined, it's a little creek.

13 THE CHAIR: So what is the conclusion of
14 this conversation, Mike?

15 MR. GRANT: Maynadier has the same one,
16 6 inches from point of shore, Maynadier. The
17 conclusion is I have that handled. And the last
18 thing --

19 MS. ALLISON: I'm going to give your
20 personal phone number.

21 MR. GRANT: That's fine. Approval for

1 designated beach area may be applied for by
2 contacting DNR, Boating Services, is that -- how do
3 you deal with that, who designates a beach area? I
4 mean -- Louis?

5 MR. WRIGHT: In the MDE regulations
6 there is a whole section on designated beach and
7 what's supposed to happen there in terms of sewage,
8 trash, water, those kinds of things for public
9 health. I'm not sure exactly why it wound up in
10 the Severn River plan, you know, there is a whole
11 section in MDE that deals with it, designated
12 beaches, and if you put in designated beach in
13 Google you will get either what's in here or in
14 MDE.

15 MR. LUNSFORD: That's pretty much what
16 Louis said.

17 THE CHAIR: What's the issue?

18 MR. GRANT: What Louis and Bob was
19 confirming with MDE and the local health department
20 they will designate the area, we just mark it. So
21 our responsibility is identifying it, marking it

1 after it's been approved; is that what you
2 understand?

3 MR. WRIGHT: We don't establish them
4 all. I mean it's by saying it's a designated beach
5 area are we going to guarantee there is no debris
6 or anything on the bottom, we don't go and do
7 survey work like that, MDE doesn't do survey work
8 like that, all they do is do you have adequate
9 water, sewer and trash pickup and some other
10 characteristics.

11 MR. MARSH: How about the health
12 department?

13 MR. LUNSFORD: Well, the whole purpose
14 in buoying off swim areas was to keep vessels out
15 and that was back at the time when jet skis were
16 attacking the swimmers and literally that's what it
17 was for to prohibit people from traveling through a
18 buoyed swim area whether it was a traditional swim
19 area or whatever but it was to control the vessels,
20 not so much impinge on the health department's
21 thing and that's why we marked it was because it

1 automatically establishes that those are restricted
2 areas for boating, it wouldn't matter either way,
3 we just didn't want people getting chopped up.

4 MR. KLING: What this says is that DNR
5 designates beach areas and shall mark them and then
6 it says if you have a beach area, a swim area may
7 be approved by the health department or DNR but
8 only at designated beach areas. So the first
9 obligation is on DNR to establish a beach area and
10 independently or with a nudge from the local health
11 department they can create a swim area. I mean
12 that's what it says.

13 THE CHAIR: Have you gotten any requests
14 to designate any beach areas?

15 MR. GRANT: Last year and the year
16 before I had someone complain there were boats
17 mooring in their area and I turned it over to NRP,
18 that's the only thing that I have heard.

19 MR. PARLIN: I think the only -- I think
20 let's look at this in the reverse, I think when
21 somebody decides I bought a house and I'm tired of

1 that going by my house and I throw a buoy over
2 there and over there that says swimming area,
3 you're no longer, you're prohibited to swim in that
4 area, that allows the department to come back and
5 say that's not a designated beach. I think that
6 might kind of help you.

7 THE CHAIR: What do you want from us,
8 Mike?

9 MR. GRANT: I guess, I'm going to go
10 back to the study on it.

11 THE CHAIR: Okay.

12 MR. KLING: Keep in mind this only
13 applies to the Severn River.

14 THE CHAIR: So are we on to legislative
15 news?

16 MR. GRANT: No. On six knot, this came
17 through from our vice-chair that would like this
18 particular issue discussed, pertains to the
19 regulation itself and why part of it is implemented
20 and I will task Mr. Parlin.

21 THE CHAIR: Chris.

1 MR. GRANT: Chris.

2 MR. PARLIN: This is actually, this came
3 to me a few years ago from a friend of mine who had
4 gotten pulled over, he was coming back in the
5 creek, Grays Creek in the Magothy River, and he had
6 a couple of small grandchildren and he had them on
7 a tube and was towing them home and he felt it was
8 safer to put them on the tube through the six knot
9 area and tow them out than be out in the Magothy
10 River with all of the general public and he got
11 pulled over and was issued a warning for towing a
12 person in a six knot zone. That kind of struck me
13 as odd and then we looked at the regs and found it
14 is in the very last item six knots, B, six knots
15 means person may not operate or give permission to
16 operate a vessel in and I is a boat speed in excess
17 of six knots, that makes sense and, two, to tow an
18 individual on ski, aquaplane or similar device.
19 Should that be in the six knots, should that be a
20 prohibited activity in a six knot area, and I kind
21 of got some feedback from a few folks as to well,

1 maybe it is, because six knot zones are generally
2 congested areas, but not always, sometimes they're
3 just areas, they're there to protect the, you know,
4 shorelines of boats in the area, marinas in the
5 area, so I throw it out there as just worth looking
6 at it or not.

7 MR. DWYER: I think it's a good thing as
8 a used to be skier and as a waterman now, you can
9 run a trout line in a confined area you might look
10 up and see that boat, but you're not going to see
11 those couple of little kids being towed behind that
12 boat. Same thing with the people sitting in the
13 water is the person sitting on the bow of the boat.

14 THE CHAIR: Anybody else?

15 MR. PEPE: I don't see a whole lot of
16 difference with towing somebody in a PFD than
17 somebody in a kayak at six knots, personally.

18 MR. LEVITAN: I don't see it.

19 MR. LUNSFORD: There is no restrictions
20 if I want to go down to Annapolis Harbor and swim
21 from the Chart House over to Prince George Street

1 that's legal, and it seems to be having a vessel --

2 MS. ALLISON: When was the last time you
3 played Russian roulette?

4 MR. LUNSFORD: I didn't say it was
5 smart -- seems to have a vessel associated with me
6 would increase my chances of making it.

7 THE CHAIR: I have Russ' experience, I
8 live near the Severn Narrows and on Saturdays and
9 Sundays and towing somebody at six knots, even on
10 that boat going six knots, there is an awful lot of
11 things going on. Anybody else? Chris, you want
12 more conversation or did you do --

13 MR. PARLIN: Well, I guess the question
14 is should we proceed forward with looking at this
15 this season or should we just, should we just let
16 it go? I don't have a whole lot, you know, a whole
17 lot invested in this other than, you know, Pete,
18 someone was killed. I'm kind of on the fence, I
19 guess, to the left a little bit.

20 MR. DWYER: How can our last
21 conversation save one life be so important and to

1 me this could be a life, three or four year old
2 kids behind them with life jackets in a boat behind
3 them?

4 MR. PARLIN: They're doing six knots.

5 MR. DWYER: That's pretty hard to turn
6 around a 75 foot tow line, it's hard to get back.
7 That's up to you all.

8 MR. LUNSFORD: PFD.

9 MR. DWYER: That makes the body float.

10 MS. SMITH: I feel like just based on
11 your anecdotal evidence that the officer was using
12 a little bit of discretion in not issuing a
13 citation regarding this. I mean I would wonder if
14 they would typically use just general discretion
15 and if it is Spa Creek you get the kids off of
16 here, but if it's some really quiet little creek
17 and they're just bringing them home, that, I would
18 just -- I mean do we, do we rely upon the NRP to
19 call those judgments or do we not? Because it
20 probably is on both sides of it, you know, like you
21 just said it's a safety thing and --

1 MR. DWYER: In our office when we --

2 MR. JONES: Is it six knots in there?

3 He tows there all of the time.

4 MR. KLING: Right half is six knots
5 going in and the left half has a ski course.

6 MR. PEPE: This kind of strikes me as
7 trying to regulate common sense, I mean, you know,
8 nobody is going to tow somebody on a tube through
9 Kent Narrows, nobody is going to try to tow through
10 Knapps Narrows, or Magothy Narrows. I don't see
11 the difference between somebody on a kayak or a
12 sail board, somebody on a paddle board and somebody
13 in a tube, as long as they're wearing the proper
14 safety equipment.

15 MS. HENNINGER: I just want to add also,
16 it is common sense, it depends on the time of day.
17 Even up in Middle River, we're not going to tow
18 between 3 and 5 on Sunday on the back of a boat,
19 but we might do it during the week, even the mild,
20 you know, Sundays when everybody's home at 6
21 o'clock at night we might be doing it, or 7 o'clock

1 when nobody is around, but if we restrict it
2 completely we're shutting down a big river and
3 nobody can go up and down at five miles an hour.

4 THE CHAIR: All I can say is I live near
5 the Severn Narrows and this happens all of the time
6 in there, I know it's not legal and the police use
7 their best judgment as they always do, I have
8 always found them to be very level headed people,
9 it just happens, and if you have been in the Severn
10 Narrows Saturday or Sunday afternoon, any day of
11 the summer, it is jammed with people and it is hard
12 to get around when there are these tubes getting
13 towed around in those narrow little sailboats, some
14 under sail, some under power, there is stand up
15 paddle boarders and kayakers. I have not a single
16 bit of problem with this personally speaking and I
17 usually lean the other way towards giving more
18 freedom for people to do whatever their common
19 sense dictates. I don't see a lot of common sense
20 on Severn Narrows on Saturday and Sunday afternoon.

21 MR. MARSH: That is only one area, there

1 are a lot of areas and it's six knots and you, your
2 kids haven't had enough for the day and they said
3 can't I get back in the tube, I mean, there are,
4 there is some degree of sense going to be used, you
5 know, when you're doing that. I mean, you know,
6 certainly coming up the narrows, if I come up
7 Severn River I know that place, I'm not going to
8 put my kids on those tubes coming in there and they
9 probably do.

10 THE CHAIR: People do all of the time.

11 MR. DWYER: We tried to outlaw --
12 somebody tried to outlaw plane boards and they were
13 dangerous and they are only 30 feet out.

14 THE CHAIR: We're all over the place.

15 MR. LUNSFORD: I have an idea, let's
16 wind this up by asking that NRP, that our officer
17 come in, somebody's that's on the water, and talk
18 about the implication about towing or not towing in
19 a six knot zone and --

20 MR. JONES: That sounds good.

21 THE CHAIR: That's a good idea.

1 MR. PARLIN: This is not urgent. There
2 was no motion made, so it's just --

3 THE CHAIR: A conversation.

4 MR. PARLIN: -- a conversation.

5 MR. LUNSFORD: Discussion.

6 MR. PARLIN: Discussion.

7 MR. BUSH: You want to make that motion?

8 MR. LUNSFORD: No, we discussed it.

9 MR. LEVITAN: Table it.

10 MS. ALLISON: Can't legislate common
11 sense.

12 MR. LUNSFORD: Can't regulate it.

13 MR. GRANT: Are we good?

14 THE CHAIR: Yes. Legislative news.

15 MR. O'MALLEY: That's me. Ladies and
16 gentlemen, the Boston Marathon was Monday, but I
17 think you have exceeded it today, I really do. So
18 I'm going to make this very quick.

19 First off, Ramona and Kelly, thank you
20 so much, that discussion before lunch was probably
21 the most --

1 (Discussion held off the record.)

2 MR. O'MALLEY: -- spirited and intense
3 in my year and a half of being associated with this
4 group. So well done and I think, seriously I think
5 it was a great discussion because it brought out a
6 number of issues and we had the operators here and
7 we had boating safety and NRP here so one of the
8 things I wanted to go back is the more you do
9 things out in the open the better results you get,
10 so today I think was really a great testimony to
11 that and I heard the other in the past the best
12 antibiotic is sunshine so you do things out in the
13 sunshine and it's, it's a healthy process and
14 nobody can try to fault you, so it was tough today
15 keeping control of this group.

16 THE CHAIR: It was entertaining.

17 MR. O'MALLEY: It was very, very tough
18 for you -- she's going to double bill us, I think.
19 But nonetheless, thank you for that, because I
20 thought it was, I thought it went very well.

21 Now, a little, a little bit of

1 self-serving publicity. In the past if you have
2 young children or grandchildren Thomas Point is
3 having an open house, May 10th from 10 to 3. I
4 won't be there, I went last year, it was great fun
5 even for a guy my age. This year they're going to
6 have a helicopter, fire trucks, an ambulance,
7 mobile blood drive, they have food and go through a
8 demonstration, so if you have kids, bring them
9 down, because it's a great time.

10 MR. MARSH: May, what is the date?

11 MR. GRANT: May 10.

12 So at this rate, legislative session, it
13 was a pretty quiet legislative session in terms of
14 boating, which was kind of nice. And I have some
15 copies of the bills that went to the governor and
16 the bills that didn't go to the governor so I have
17 copies here, I'll leave them down here if you want.
18 I can, I have this electronically, so I can get it
19 to Jeannine and she can put it the minutes but then
20 it's up to a zillion terabytes or whatever it is,
21 but going down the list real quick bills that did

1 go to the governor was to include electronic
2 signals emanating from your boat that can be
3 ticketed by MLEIN for the purposes of enforcing
4 fisheries regulations and so forth, so if you're
5 putting out AIS and you're in a no fishing zone and
6 MLEIN detects you that's going to stand up. So be
7 forewarned. Okay. Bills that did not pass. One
8 was, and this is regulating common sense, operating
9 while under the influence or impaired by alcohol or
10 drugs. They were going to close the loophole where
11 this didn't apply to, or does not apply to
12 non-powered vessels, canoes, kayaks, paddle boards,
13 it never got out of committee because it died out
14 of a five/five vote, so the bottom line is if you
15 want to kayak after getting a snoot full of
16 alcohol, go ahead. You know, why they blocked that
17 I don't know but, again, it goes back to the first
18 responders. Are you going to hurt yourself and
19 you're drunk and canoeing, probably not, but if you
20 put yourself in front of that boat coming up the
21 Severn River, yes, and then the people that hit you

1 have to live with that and the people that have to
2 rescue you have to live with that. So it didn't
3 get out. Okay. The other bill that didn't go out
4 was transferring NRP to the Maryland State Police,
5 so that one never even got voted on in committee.
6 And the last one was certificated number fee, they
7 were going to raise the horsepower from 7.5 to 9.9,
8 no one can really figure out why they wanted do
9 that and it was withdrawn by the sponsor so that
10 was it. I never had to testify, I never had to do
11 any briefing, neither did my staff, so for us it
12 was great. I would have liked to have seen all
13 of -- although it was a NRP bill -- I would have
14 liked to have seen the alcohol bill go through.

15 A little update on our best little
16 excise tax gap. To date you all remember this,
17 from Senate Bill 90 last year capped the vessel
18 excise tax at 15 thousand dollars, to this date we
19 have been denied. When I say we've lost the tax
20 money Susan Zellers from Marine Trades said you
21 didn't lose it you gained 15 thousand from all of

1 the vessels that were registered, I said yeah,
2 semantics, Susan, but we have lost about 1.7
3 million dollars in revenue, that's the bad news.
4 The good news is part of that bill we got half of
5 one percent of the normal fuel tax. To date we
6 have pulled in about 2.2 million so offsetting
7 we're about a half a million ahead. Now, perfect
8 world we would have gotten the gas tax without the
9 cap and it would be 3 million dollars ahead, but it
10 is what it is, so we're moving along. The task
11 force has met three times and there's another
12 meeting May 15th which are always open, you're
13 always welcome to come. You're going to have the
14 same lunch that you had today, May 15th from 10 to
15 2 in the afternoon at Tawes and like I said it
16 would be the fourth meeting. We are working on a
17 number of issues, dividing up into groups and
18 categories and objectives of the bill, the
19 different issues, and we've got a pretty
20 interesting group. We have National Marine
21 Manufacturers, you have BoatUS, St. Mary's County,

1 Coles represents Chesapeake Bay Yacht Club, Jon
2 Sheller represents this group, and Susan Zellers,
3 quite a number of people with experience in the
4 industry and they really bring a lot of thoughts
5 and good ideas. All of the documents that we have
6 used to date are on the, on the DNR website so go
7 to boating and in the left hand column there is a
8 item, I don't know what it's called technically,
9 but the left hand column will say Boating
10 Enhancement Task Force and you click on that and
11 you see all of the documents that we referred to at
12 date, you see the agendas for the first three
13 meetings and the meeting summaries, so if you want
14 you're more than happy to follow along that way if
15 you would like, you can attend if you would like
16 but it's a good group and we're moving along well.
17 The final report, we have to do a report this
18 September on the impact of the VET to date and then
19 the full report will be next date on how to do
20 boating in the state of Maryland, VET statewide, so
21 it's a lot of work, but it's interesting and a good

1 group and I think that's all that I have.

2 THE CHAIR: Mark, do you think we should
3 have you or Coles to give us also briefing on
4 what's happened in that at the next meeting?

5 MR. O'MALLEY: Sure.

6 THE CHAIR: Quick update on what's going
7 on, sounds very interesting.

8 MR. O'MALLEY: Sure, because by the end
9 of this coming meeting we'll have a little more
10 meat on the skeleton.

11 THE CHAIR: By fall.

12 MR. MARSH: By fall we'll have a little
13 more time.

14 MR. O'MALLEY: Yes. Yes.

15 THE CHAIR: Okay, thanks.

16 MR. O'MALLEY: Be more than happy to
17 bring in some, the fellow from the National Marine
18 Manufacturers brings in tremendous amount of data
19 and information that we wouldn't otherwise be able
20 to get, so it's really good. Last session we had
21 Jeff Hoak (phonetic), Boating Safety Director from

1 Coast Guard headquarters come in and talk about the
2 recreational safety boating market and how that's
3 determined and so we got a peek behind the curtain
4 on how that money is divvied out to the states and
5 he gave us some tips on how we might be able to
6 increase our share, but to increase our share we
7 have to do legislation and include otherwise
8 nonregistered boats.

9 THE CHAIR: Any questions?

10 MS. ALLISON: Just a comment, many, many
11 moons ago and Bob Lunsford may be able to help me
12 with this one, I'm going back a long time, but the
13 University of Maryland did an incredible study
14 about the impact of boating on state of Maryland,
15 that would be a tremendous source to compare to.

16 MR. O'MALLEY: We have it.

17 MS. ALLISON: Fantastic, it's a really
18 good source.

19 MR. O'MALLEY: Really is and nothing has
20 changed.

21 MS. ALLISON: Just out of curiosity, how

1 old is that?

2 MR. O'MALLEY: There's a few -- do you
3 know, Bob?

4 MS. ALLISON: 20 years.

5 MR. LUNSFORD: One, I think, it was well
6 over --

7 MS. MORROW: Nine years, they do it
8 over --

9 MR. O'MALLEY: They update the facts and
10 put a cover letter on them.

11 MR. LUNSFORD: And charge you twice as
12 much.

13 MR. O'MALLEY: Yeah, we used University
14 of the Maryland Environmental Finance Center to do
15 two studies for us, one before the task force, and
16 one since then. We're going to use them again. I'm
17 going to confession, simply because we have a
18 contract and it's real easy to get them on board,
19 but they do excellent work. Yeah.

20 MR. KLING: What's the -- how's the
21 Waterway Improvement Fund doing, is that trending

1 back up after the low ebb?

2 MR. O'MALLEY: We had a good year last
3 year. We were a million seven higher last year
4 than the year before, so we are -- if you're going
5 to go back it was our best year since '09, so in
6 that regard we're starting to see it swing back up
7 which mirrors, if you look out on the reference
8 points, it mirrors the nation's economy and mirrors
9 the sale of boats, the sale of homes, all of that,
10 so it was coming back up, which is why it's a
11 little frustrating that the cap gets slapped on us
12 because we would have made, with the gas tax we
13 would have made a quantum leap in short term
14 because we were to that 14.7 million, in the heyday
15 for the 26 million, but the year before I got here
16 I think it was down around 12.2 so it's getting
17 better but right now as of last month this year we
18 are, we are treading water. We're about 20
19 thousand ahead of last year so we're not
20 regressing. Other than the tax cap, we're doing
21 okay.

1 MR. KLING: So 15 million last year?

2 MR. O'MALLEY: Yeah, pretty close, just
3 shy of 15 million.

4 MR. KLING: This year is a late season,
5 I mean yards are still painting boats that they --
6 you know.

7 MR. O'MALLEY: Yeah, so this year with
8 the gas tax, you know, potentially could be near 17
9 but, you know, part of me wants to keep the gas tax
10 separate because it's cleaner when you start
11 comparing year to year.

12 THE CHAIR: Thank you so much.

13 MR. O'MALLEY: Yep.

14 (Discussion held off the record.)

15 THE CHAIR: So we're in old and new
16 business; is there any old business that we need to
17 talk about? Any new business?

18 MS. ALLISON: Other than we should do
19 something nice for Torrey Brown if we can, let me
20 know what's going on. I mean he was a long, loved
21 person of this group.

1 MR. MARSH: I agree.

2 (Discussion held off the record.)

3 THE CHAIR: So then next meeting date?

4 MR. GRANT: August. Are we thinking
5 Kent Island again?

6 (Discussion held off the record.)

7 THE CHAIR: Okay, next meeting is
8 Wednesday, August 13th.

9 (Discussion held off the record.)

10 (Hearing adjourned 2:41 p.m.)

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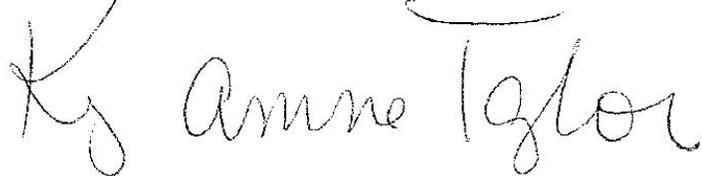
1 STATE OF MARYLAND
2 COUNTY OF BALTIMORE

3

4 I, Kelly A. Taylor, a Notary Public in
5 and for the State of Maryland, County of Baltimore,
6 do hereby certify that the foregoing is a true and
7 accurate transcript of the proceedings indicated.

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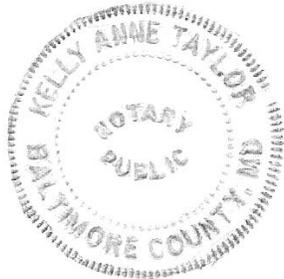
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Kelly A. Taylor, Notary Public

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MARYLAND BOAT ACT ADVISORY COMMITTEE MEETING

Transcript of Maryland Boat Act Advisory Committee Meeting taken April 24, 2014

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