NACEPT TOXICS DATA

REPORTING COMMITTEE

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Proceedings By:

CASET Associates, Ltd.
10201 Lee Highway #160
Fairfax, Virginia 22030
(703) 352-0091

PARTICIPANTS:

Committee Members:
C. Corwin Bromley
Linda Brown
Samuel Z. Chamberlain
Andy Comai
Michael Keith Eck
Joan Fassinger
David Fees
Susan Ferguson
Robert J. Garner
Ken Geiser
David Jacobs
Thomas E. Natan, Jr.
Paul Orum (via telephone)
Rick Reibstein
Edmund Skernolis
Michael Sprinker (via telephone)
Robert C. Steidel
Jonathan A. Stone
Wilma A. Subra
Victoria D. Sullivan

Also Present:
Christine Augustyniak
Maria Doa
Fern Feil
Rick Latimer
Steve Newburg-Rinn
Amy Newman
Michelle Price
Janette Peterson
Larry Reisman

TABLE OF CONTENTS

	Page
Future of TDR Committee	1
Discussion/Revision of Draft Prepared by Form R Group	57
Discussion/Revision of Draft Prepared by Burden Reduction Group	81
Discuss Possible Other Parts of TDR Committee Report	112

P R O C E E D I N G S [8:13 a.m.]

MR. FEE: Good morning. We are going to get started.

Agenda Item: Future of TDR Committee

The first thing we are going to cover this morning is the future of the TDR Committee. EPA is going to give us some thoughts on that. I think we are going to at this point accept any other issues that people have thought of that they would like to see possibly considered for the next three or four meetings.

MS. NEWMAN: Let me do one thing before I forget this yet again.

I have been meaning for the last day to introduce Larry Reisman, who is a new member of our staff, who is going to take over for Michelle, you know, doing all the coordination and what not on this committee. So, in case you were wondering who this new person was, that is -- you are going to be hearing a lot more from him over the next year, assuming that you stay with the committee.

So, back to the issue at hand.

MR. FEE: EPA, do you want to just open it up to the committee members?

MS. NEWMAN: Yes, sure.

MR. FEE: The stuff we worked on yesterday really was not a list. There were ideas. There were other things mixed, interspersed with topics.

MS. FEIL: There was one section that had somewhat of a list.

MR. FEE: I need to number them if we are going to --

MS. FEIL: The table issues part really had a list and then after that, we moved on.

MR. FEE: Was there any other items?

MS. FEIL: There was one other but you guys said it was -- there was -- pretty much all the ideas, everything else was a suggestion about process and that sort of thing.

MS. NEWMAN: The couple that we brought up, that we are hoping that the committee will deal with, one sort of just future of the program, just general direction. Where should the TRI program be going, you know, and that goes to issues of how we should be expanding if at all and how we should be, you know, maybe pulling back on the program in certain areas, again, if at all.

So, that was sort of a broad issue. Another one was outreach, you know, is the outreach that we are doing right now, you know, sort of sufficient for making the data available to the public and, you know, making it

understandable. I know that, obviously, we have gotten to that issue to some extent to the PDR discussions. But we would like to have sort of a broader discussion on the kinds of -- the ways that we get the data out and the ways we, you know, we provide information about the data.

So, that was another one. There was this RCRA, combining RCRA and TRI reporting, which I am not real familiar with just because I don't know that much about RCRA and this is an issue that has been brought to us. Maybe Ed would know more about this. But beyond that, I don't -- this issue was just brought to us recently. So, I can't really expand upon it too much, but we do have a RCRA staff person, who is interested in coming to the committee and talking about that.

We would, obviously, need an issue paper and another one was sort of the data quality issue. How far should the agency go in trying to assure the quality of the data? This issue has become real relevant to us this year. We have been going through this process of preparing, you know, the public data release and we have had, for instance, a number of facilities that have reported, say, in the long SIC code their big -- you know, their big facilities or big releasers.

You know, we have already frozen the data. We have already gotten way far into the analysis and then we discover, you know, as we are doing it, an individual sector analysis. Oh, my gosh, this, you know, really skewed the data. So, there is a question in our minds about how far we should be going as an agency in trying to assure the quality or is there some way that we can, you know, rely, put the onus back on the industry to submit, you know, quality data or to make sure that they do the data quality checks that, you know, that sometimes we help them with.

I mean, we send back in -- send them back their key data so that they can check it in theory, but, obviously, we are still running into some of these problems.

So, that was, I think, our other big issue. So, I mean, those are kind of four or at least three big issues and one maybe slightly smaller one. But, anyway, we do want to open it up to you guys to suggest ideas.

[Multiple discussions.]

MR. FEE: There are several people who indicated that they had some issues. Why don't you just start enumerating them. If they happen to be already up there, we will just

point that out. But let's get the other issues out and then –

PARTICIPANT: [Comment off microphone.]

MR. FEE: That is fine. If they reiterate one -- what we want to do is get those new ideas. There were two or three people who indicated that they had some ideas and I am not sure that we have already covered them.

MR. ORUM: This is Paul Orum.

As I said yesterday, personally I would be interested in discussing some new things, but not continuing the committee at all on some of these old things that I feel we have been over. But then I thought further and realized, for example, discussion of the definition of "release" could potentially be very helpful and useful in discussions on adding information where it is reporting on chemicals going into product to TRI. In other words, what is a release, whether it becomes bioavailable or not, could be very significant.

So, on that issue, I would add that angle or sub-issue.

MR. FEE: Right now we are not voting as to whether, you know, whether we want to see an issue –

MR. ORUM: I am not voting. I am giving you a suggestion. That is what you asked for, right?

MR. FEE: Yes, okay. Well, what is your suggestion then because I thought you were talking about the -- definition of "release" is already up there.

MR. ORUM: I specifically said that it would be very helpful talking about definition of "release" in terms of chemicals going into product. Chemicals into product may also be on the list. I am not –

MR. FEE: Unfortunately, you don't have the list to see. Chemical use reporting is there.

MR. ORUM: Yes, but those are discussions that could be joined in a useful way. In other words, we have talked about definition of "release." There were certain limitations on that discussion. It was useful as far as it went. As I was saying, I feel rather strongly that I don't want to go around beating around on some of the same issues over the same ground for the same reasons, finding the same limitations on

discussion, but if we can take it into new areas, which are important, such as the definition of “release” is needed or may be useful for discussion of what chemicals go into product, that seems like a potentially valuable place to take discussions.

MS. NEWMAN: I think, Paul is -- all he is doing is, as far as I can tell, is just maybe broadening, you know, the definition of “release” for purposes of, you know, for that discussion. Is that right, Paul?

MR. ORUM: Correct.

MS. NEWMAN: Is Rick here today? He was one of the ones who wanted more time to think about some issues, but, I mean, there are a lot of issues here. I don’t want to really push this beyond what people want to -- if people feel like this is a good enough list to work from, that is fine. We don’t have to, you know, waste a lot more time on this.

MR. ORUM: This is Paul Orum with one other broadening suggestion. We heard earlier about the potential of talking about RCRA in combination with TRI. I would urge that that sort of topic be approached not in the narrow sense of RCRA and TRI, but more in the broad sense of, you know, intelligent reporting software, your Turbo Tax for environmental reporting, which I think would be a much more successful context in which to approach that issue if we continue and get into that issue.

MR. SKERNOLIS: Can I respond to that?

Paul, I agree with you as a practical matter you have to look at how you would do that integrated reporting and the Turbo Tax process would be part of that discussion. I think the suggestion of integrating the two reports is taken in the broader context if you have two different statutes and regulatory programs mandating the delivery of these items, one on an biannual basis, one an annual basis.

So, it gets to be more than just a how to on the Internet or something like that. It is an integration of the regulatory process that would be required and there would be some hurdles we would have to talk through and discuss in that broader context, I believe.

MR. ORUM: Yes, I am fully aware of those hurdles. In fact, you know, have been part of discussions which have

addressed those hurdles in similar committees as far back as 1994. Having been through that experience and seen the frustrations and the bureaucratic walls that, you know, are beyond the scope of what the committee can decide, but are inevitably a part of the reality of making such changes, that is sort of like been there and done that.

If we are really going to succeed, we have to figure out ways to make an end run around all those barriers, those barriers, including the relationship of EPA to states, the relationship of EPA to OMB, the relationship of program offices within EPA and so on and so forth. Hence, my interest in seeing if it could all be done, you know, on one person's desk top far more easily.

But, again, there are issues there that that sort of -- it is really maybe sort of a techie computer discussion that we cannot actually hold as a committee and, therefore, it might not really go anywhere beyond a simple recommendation as we have made already, that, hey, EPA, we are interested in this. Why don't you put some real resources into developing it?

Does that make sense?

MR. NATAN: I am going to be brutally honest here and say that for me this year has been an industry-driven agenda and in order for me to consider participating in another year of this, I really want to see a real discussion of chemical use reporting. You know, that is the issue that is of interest to my organization and other organizations like us. I feel like my presence here this year has been holding the line in what we already have.

I don't want to do another year of that. So, I am just chiming in from that perspective that, you know, that is the issue of the most importance to me up there and if we don't end up having that on the agenda for discussion next year, then I don't see any reason to participate.

MS. FERGUSON: On the lines of the discussion of the RCRA/TRI integration, my broader take on that would be if we could identify the regulatory barriers and make recommendations for solutions, I think that would advance that cause. That is a little broader than just RCRA, but I think you are going to find both in legislation and in rules definitional differences, timing differences, unit reporting differences

and some discussion of the pros and cons or some recommendations back on choices would enable integration to go forward.

MR. SKERNOLIS: In respect to Tom's position, does EPA want this committee to address that issue? Is it right for this committee to address that issue, given the context with which that program is being evaluated and ruled out, since it is my understanding EPA hasn't even reached a final decision of whether it even has the authority to do it under the current statute. So, I mean, there is –

MS. DOA: Well, I think -- remember the conversation we had on the definition of "release" yesterday. I think it is as appropriate as that because what I heard yesterday was the committee wanted to provide us with what they believed would be the appropriate interpretations for the definition of release. And what I had said in terms of what you wanted to prioritize, that the agency was not planning at this point, to the best of my knowledge, on doing -- on changing its interpretation of the definition of release.

I mean, I think then they become both valid and the committee can provide us information on chemical use.

MR. SKERNOLIS: I was going to just ask him a question then, that if -- if we agree to go forward and we agree to put that on as an agenda item, it would have to be undertaken in the context, as I understand it, that the EPA has not yet made a final decision on, you know -- Tom, in your absence, I had asked EPA to clarify how they felt about bringing CUR into this committee's discussions, at least whether they thought it was ready -- not whether it was legitimate on the merits, but just was it right for discussion since there seemed to be some questions within the agency about whether they even have the statutory authority to go forward with the CUR program, et cetera.

Maria responded that she puts it in the same category as kind of the definition of a "release." The recommendations of the committee would be valuable kind of

as a general response from the community of aficionados out here.

But my question, I guess, to Tom is whether or not there are other conditions you are placing on that, i.e., we wouldn't be discussing it in the context that it is a given,

that there is going to be a CUR program, right?

MR. NATAN: No. Absolutely.

MR. SKERNOLIS: And that we are not talking about it in terms of what should a CUR program look like. It might be whether there is a value to it at all and what are the complications of even -- it is so controversial. We still haven't passed first principle threshold.

MR. NATAN: No, I understand that. I think it would be valuable to examine -- I haven't seen a real examination of sitting down in a group like this and examining the issues that have to do with chemical use reporting. I mean, last year when I was talking to Susie Hazen about it, in spite of the thousands of comments from NGOs that got submitted to the docket, Susie said she hadn't heard enough from the environmental community about chemical use reporting. So, I would like to, you know, try and fill that void.

MR. SKERNOLIS: I am reminded of Roy Scheider's comments in Jaws, "We are going to need a bigger boat." We are going to need a longer public comment period than 15 minutes when that is on the agenda.

MR. NATAN: Absolutely.

MS. FASSINGER: It looks to me that, you know, a lot of these things could be combined in context and we could have some pretty good discussions. In light of possibly combining some of these and look at, you know, like unified combined reporting and then what some definitions might be for trying to reconcile, I would like to add in that context reevaluating the definition of "toxic chemical" because I think a lot of the controversy on these other discussions isn't so much chemical use or chemical reporting, it is toxic chemical use or toxic chemical reporting. So, it could influence some of the other items here.

MR. ORUM: Joan, this is Paul Orum.

Without having that discussion, you know, beforehand, I think we need to just remember that that is a definition that is in the law. I don't mean to get into the discussion, just point that out.

MS. FASSINGER: Several of the definitions are in

line. If we are going to look at trying to move forward, we may need to reevaluate, you know, a lot of definitions and try to develop what we feel is the appropriate definition that could be applied across programs.

MR. ORUM: Sure.

MS. DOA: I have a clarifying on that, Joan.

Do you mean to look at the way EPA has interpreted the statutory toxicity criteria?

MS. FERGUSON: Joan, can I try because when I identified regulatory barriers, my thought was you had barriers in the law, as well as rules. First, you need to identify where you have differences in issues and then make some recommendations on systems that would work, be those recommendations for EPA or for Congress in terms of consideration and changing.

MS. FASSINGER: Can I respond to Maria?

I don’t think I was looking at changing the toxicity criteria per se. I have experienced difficulty in some cases in finding out why a chemical is on the TRI list, above and beyond high volume considerations or because it was an original list somewhere.

So, it seems that a lot of the controversy surrounding discussions on several of these topics is contingent upon an idea, you know, what a toxic chemical is and that there are implications if you call a chemical toxic as opposed to just talking about chemical releases or management or whatever, you know, use or whatever.

I know this came up a lot, too, and it has come up in a lot of the other definitions, what is a waste, and there seems to be a label put on a waste if it is a toxic chemical waste as opposed to if it doesn’t contain a toxic chemical. Even though they both contain chemicals, it might have similar toxicity technically. So, I think that, again, should come in, especially if we are going to look at moving

-- you know, some of them are future unified or regulatory barriers.

MR. GEISER: Let me just follow up and add to Joan’s comment with a certain twist to it, which is in Massachusetts,

we have a list for the state program, the Toxicities Reduction Program. What we have done over the past year is to work with the science advisory board to segment that list into high hazard chemicals and lower hazard chemicals. I know this is going on elsewhere and EPA has some effort to try to begin to think about prioritization within toxic chemical lists.

One way to think about this would be -- within the TRI, is that we might be moving toward a situation where we increased our aggressivity around the reporting on high hazard chemicals, but lower some of the reporting on a more expanded list of just general chemicals that we would like to track but we don't need the same level about it.

It is just a possibility and I think that it might flow from something that Joan is suggesting here.

MS. FASSINGER: And just to add to that, we are getting into persistent bioaccumulative toxics. We have toxic chemicals. We have toxic chemicals. We have hazard chemicals that are defined differently under EPCRA and RCRA. Again, if we are trying to get better information to the public, we really should try to eliminate those technical differences and try to get to some system of identifying chemicals that can be understood by everyone across all programs.

MR. SKERNOLIS: On one of the issues that is already up there, the data quality thing that EPA asked to be put on, I would just like to ensure that that discussion not simply be limited to assuring the quality of the data that is submitted, but it is also having EPA identify the quality of the data when it reports it out to the public.

MS. DOA: That is one that I brought up, I think, and part of what I would like to make sure is captured with that is -- and I agree, it is not the input data that the people who do that do. It is the -- before we release the data, how far do we have to go to look at misreporting by the submitter and try to correct that before the data are released?

And, partially, does it mainly affect other industries if they release incorrectly -- I mean, if they report incorrectly their SIC code. So, for instance, a facility in pulp and paper switched two of the numbers in their SIC code and turned up in apparel and accounted for a third of the quantities, you know, the releases for that whole apparel in-

dustry. That is an example.

So, is there some balance -- so, I just want to make sure that is captured.

PARTICIPANT: Paul, are you still there?

MR. ORUM: Yes.

PARTICIPANT: Mike, you still there?

PARTICIPANT: I don’t think Mike is here. That was Paul.

MR. STONE: In regards to that, you are looking at major errors in SIC codes in reporting, but it should also be a way within an SIC code that if you have got four or five hundred reporters and then all of the sudden there are five that are two or three orders of magnitude higher in what they report, there should be some way of flagging and going back to find out did they, indeed, do that or is there an error in their reporting? Flag the QA within an SIC code. The difference in error is not only misreporting your SIC code, but it is misreporting chemicals by a facility.

I feel that my industry happens to be one of the bad offenders at that, where we horribly misrepresented some 1996 numbers that are two and three orders of magnitude wrong in what they reported.

MR. GEISER: Maria, can you expand on this rather vague first item, expansion and contraction of the program. Ideas like you want smaller offices and –

[Multiple discussions.]

Is it a budget issue? Is it -- you know, what gets expanded or contracted? It is very vague.

MS. DOA: I think it is a broad policy issue on the program. It is sort of -- we are asking you for input on where do you think the program should go. And I think two things that really reflect on that are chemical use on the one hand and what I think is pulling in the definition of release on the other hand, which are just two examples of that.

MR. GEISER: So, this was your coy way of pulling

those issues in.

MS. NEWMAN: I think also maybe your issue of trying to differentiate, you know, the higher hazard chemicals versus lower, you know, is another thing that could sit under that category in sort of trying to think about some of the different categories. And, you know, I think we can, like Joan said, probably sort of tie these together so we have got maybe five general categories, like future of the program, some issues of definitions that -- outreach and data products would be another category, data quality, how do we ensure data quality and then ways to streamline and integrate reporting.

Those might be sort of five issue areas that I am seeing out of all of these

.

MS. FASSINGER: Can we write those up as summary categories? I think we can fit a lot of these other things in then under those.

MR. SKERNOLIS: I was thinking that expansion might include the category of expansion and the process by which EPA, like the last process by which they picked the seven or last year's update was one way to go about identifying which seven should be picked. So, I mean, I think the whole process that EPA used to determine what are the next batch of facilities that we are going to try to add, you know, and what direction is that?

I mean, as you know, I have been outspoken on the issue of fundamental changes that take place in the program when EPA starts bringing pollution control facilities, another process in getting further and further away from manufacturing and processing where the toxics are generated.

MR. FEE: Yes, Bob.

MR. STEIDEL: Just real quick, I just want to make sure that outreach, when you talk about outreach, I hope you are talking about the link between this fine PDR product and the local community and local governments filling that gap. I think that is -- is that part of outreach?

MS. FEIL: Yes.

MR. FEE: Okay. We have taken enough -- well, we are done taking issues. EPA has sort of grouped them. So, now we have less things to vote ngs to vote on because that is

what we are going to do now is some type of multi-vote.

EPA, how do you envision us multi-voting -- are we multi-voting on the five topics that supposedly cover all the 20 items? Is that what these items are doing?

MS. FEIL: Keep in mind, you guys, I am not sure how you want to approach this but if one of the things that you want to do is reach consensus -- and that is something that I heard yesterday –

MR. ORUM: Okay. We are both here.

MS. FEIL: Remember that it is difficult to reach consensus on the very broad topic that covers 20 different things. I will facilitate this however you guys want me to, but if you are going to have a set amount of meetings and you don't want -- you really want to thoroughly cover something and reach a consensus on it, that is just something to keep in mind when you are deciding how many issues you are going to cover.

MR. FEE: Go ahead, Susie.

MS. FERGUSON: I have a real concern on some of these topics that we actually have recommendations pending in drafts that we have not gone through at this point in time that would affect, I think, some of the discussion. I am real concerned about the data quality, data issues in that I believe personally that in the burden reduction paper when we are talking a recommendation for data management plan, data objective plan, deals with those types of issues that is one of the fundamental heart of that recommendation is identifying what information you require, how accurate and precise it has to be, telling people what they have to give you, how accurate that information has to be and then setting up systems to verify an audit in QA/QC, that whole system that is embodied in that recommendation.

So, we are throwing up -- from a process standpoint, I am getting confused. We are throwing up ideas that to me relate to things that are actually on our plate that we are about to discuss, that we haven't completed the discussion before we are turning to new items.

And I have a worry that if what we are going to do is going to have value and be used by EPA, then getting

through it, getting those recommendations and getting feedback on how you are using it is real important to me as a participant because, if not, then the efforts that we have spent heretofore go to waste. So, my process concern is rather than multi-vote it, could we leave this as a list to get back to, finish through the task of going through the paper and that may take yet another meeting to work it through, and then address this list. We can get it out to folks in the interim. They can refine their thinking, put some items together and spend a little more time on it.

I feel like we are rushing through doing a superficial brushing of issues without ever completing a task and that is the heart of some of my concerns about the process that we have been involved in heretofore.

[Multiple discussions.]

MR. ECK: As a counter view, we have got a certain momentum now. Fifteen more minutes for a vote might continue that momentum to a reasonable point that we can back away from. I think Susie was right on, assuming that there will be another meeting required, quite possibly to finish what we did.

Judging from our pace yesterday, unless exhaustion sets in, we are not going to finish today with three more papers. It took all day to do one yesterday essentially, the better part of the afternoon anyway.

We have already committed ourselves to another meeting on top of the meetings we have already had, just to finish the work we have already started. If we stop now, we are probably committing ourselves to another day of just trying to decide what we are going to do for the next meetings.

It seems to me in planning for the next fiscal year, how much time the committee members can afford to spend on this, it would be a good thing to have some idea at this point, this month, in September, of what the committee thinks they are going to do and to a certain extent how they are going to do it.

I agree that some of the reflections might very well -- some of the recommendations of the papers that we are going to discuss later today might reflect on some of these issues. That doesn’t mean we have covered the issue to any extent. I also agree that we haven’t finished this task nor have we re-

ally, I think some of us feel, finished any of the tasks we have started to a certain extent. So, I would like to see us go forward and complete this process that we have started and spent approximately an hour doing, rather than stopping right now just with a list.

I would like to see an expression now based on a brief understanding of the issues, rather than pick it up from paper and have to spend time in about a week or so or several months or so trying to remember exactly what was meant by the various categories.

PARTICIPANT: Do you want to go over it twice?

MR. ECK: No, I want to go over it once now and then go with that.

MR. SKERNOLIS: [Comment off microphone.]

PARTICIPANT: Ed, can you turn on your microphone, please?

MR. SKERNOLIS: -- if you vote now, you might want to change your vote and we wouldn't have a chance to do that because we wouldn't have the benefit of reviewing the two papers. For example, I think she is specifically talking about data quality reporting. We might weight that high now and after seeing the paper say, gee, we have covered it and want to vote it low. You wouldn't have a chance to do the –

MR. FEE: Keep in mind that EPA put that item up. So, I want them to speak to that item and how -- what they envision about that item in light of what has gone on. I mean, they have been present at every meetings. So, they know what has been going on at this meeting. So, I think maybe we need to hear from them on this.

MS. DOA: And I understand about the data quality plan. I just think as public as our program is and as we go and try to do more and more detailed analysis, which is also part of the outreach and we want to expand on that. I think that there is going to be an issue of how much correcting do we go out and do of submitters data. Do we go out and do -- on data that they are responsible for.

I interpret it as something that goes a little be-

yond the plan. The other thing is -- and maybe if we could talk about how we planned on doing this -- there is the multi-vote and then we were going to take it back. There are things that I want to talk about that you all want to talk about and there is at least one issue, the data quality, that I want to make sure to talk about.

So, I want to let you know I think this is sort of going to be a combined determination of the topics that we are going to talk about.

MR. FEE: What are your thoughts about getting the multi-vote now before we start on the issues or wait until this afternoon or wait until some future time.

MS. DOA: Well, I don’t think that -- if we are not going to get through the papers, then it would be today and it would be useful for people to be able to plan for the next year how many meetings that there will be now. So, I think it would be useful to determine that, but I think what I am also hearing is that we are going to need at least one more meeting to close -- to finish up all the work that the committee needs to do on this first year’s work.

MS. FERGUSON: At the rate we are going, probably two.

MR. FEE: Does that mean that one of the four meetings that we are talking about is going to be continuing on a TDR report?

[Multiple discussions.]

I want an answer from EPA on that.

MS. NEWMAN: I mean, I think it just depends on how it goes. I would not think it would go two more meetings. I was really hoping that it might be today and then just, you know, one day of the next one. I mean, maybe I am being too optimistic.

I also just had one more comment on Susie’s thoughts on the data management plan. The way I saw it was that, yes, we got a recommendation, kind of -- fairly general that we ought to, you know, develop a data management plan, but I think what, at least for me, was missing was some of the -- you know, the more specifics on that and you said that that would also include some suggestions on, you know, how you do

these data quality checks, in addition to all the up front specification of what kind of quality you want, what kind of confidence you want in your data.

But, you know, what we are also looking for is, you know, some more specifics on how we should check that data or the industry should check the data or whatever. So, I think we didn't get into the kinds of specifics that we were -- you know, that we are envisioning now.

MS. FEIL: I am hearing -- I think I am hearing a couple sort of frustrations, different approaches to frustrations, from different people and for different reasons.

For the next -- for today and for the next meeting -- we have another meeting on that -- are people frustrated because they feel like they are not having enough time to discuss these issues fully or are people frustrated because this is taking too long and why don't we push along faster and we are through this, we have already done this

I feel very different views from different people, both in private when I am walking out the door, at the table, all over the place. So, I want to hear a little bit about what people are thinking.

Mike.

MR. ECK: I am currently frustrated because we just -- based on Susie's proposal, we just spent an hour coming up with ideas, putting them on paper and then we are going to lose that time, go away, forget what the words meant, probably spend two hours at another meeting trying to remember what the words meant and then get to the point we are now at 9 o'clock in the morning.

So, I am frustrated that, as has been the case with many committee groups that I have attended and not just this one, we got on the train and got up to speed for 60 miles an hour heading due south towards Chicago when we should have been heading due north.

MS. FEIL: Okay. So, from a practice perspective, I think what I am hearing is that it might be helpful next time we have something like this, to get a little more buy-in up front about what we are going to do, go over the agenda for the day. This is where we are starting and everybody buy into that.

Would that be helpful?

MR. ECK: Yes.

MS. FEIL: Susie.

MS. FERGUSON: I have some significant concerns because of the start, stop nature task management. For example, yesterday's insertion of the discussion of the PDR report and whether to support that, I found to be disruptive if one of the tasks was to finalize other recommendations. In fact, I thought had we gone through the papers, our comments on the PDR data release probably would have been more valuable because we would have been through the work that we had done prior to taking that on.

I guess I was prepared to go into the papers this morning as opposed to go back to this issue, which we also did yesterday in terms of putting a list of topics on. So, I never know when we are starting a task, when we are stopping a task and what our outcome is anticipated to be and it is very frustrating.

MS. FEIL: [Comment off microphone.]

Joan.

MS. FASSINGER: On the process, I think there is frustration that we are going through tasks twice. We had gone through and developed recommendations for PDR. We had subcommittee work on there. We had gone through a complete committee review and made revisions.

My thought was that that would be our last review and there should be a final paper. We spent half the day yesterday going through all that again, which seems not to be value-added time. So –

MS. FEIL: You don't feel that we should have even had to do yesterday.

MS. FASSINGER: Not for that particular paper. For the other papers, yes, because we are just looking at them as a full committee for the first time. As far as -- I agree with Mike on momentum, I think. We have a lot of good topics up there. It would be value for future planning to try to prioritize at least so we can look at what comes up as No. 1 and get ready to discuss that and then, you know, if we don't get to the other topics in future meetings we won't because of process and timing.

But my recommendation would be to try a vote, see what comes up, number one, and then move on to try and complete our task at hand in getting these other reports done.

MS. FEIL: Okay. Let me just ask you all to think about something for next time and that is whatever we choose to continue with or don't choose to continue with or whatever we do, if you do want to reach consensus and there are going to be some time limits, I mean, that is how this is going to work, you would be asking in my opinion for a stronger facilitation mode, a lot stronger and I kind of figured write down what you said, but really to be pushed along and kept focused and moved along as opposed to, you know, just being able to talk until you feel like you are comfortable with discussing.

I think there would be discussion, but we would be trying to move you along to get somewhere. I just want you to think about if that is what you really want or if that would make you more uncomfortable. You don't have to answer that now, but just before we commit to doing something, I just -- I want to be clear about what I think it is going to take and sort of contract with you guys for what you want me to do. This is your meeting, not mine. I don't want to do anything you don't want to do, but if you say you want to reach consensus, then my job as a facilitator is to try to get you there.

If that is not what you want, I don't want to push you to do that. Okay? So, just think about that.

Ken.

MR. GEISER: I can think about it and answer it right away, which is I would appreciate -- and this is to David as well as you -- and that you just push us harder. I find the conversations to be highly genteel and highly open to a lot of extraneous thought, which is useful at a certain kind of discussant way, but my sense is you just don't drive us hard enough to get a decision on something and move on.

I would appreciate it if you -- if I feel uncomfortable, that is fine. I don't mind being uncomfortable. I fly to Washington, I would like to work and, you know, sometimes I feel like I spend a lot of time just being very leisurely and I would appreciate a harder drive.

MS. FEIL: Okay.

MR. REISMAN: Since I will be taking over the coordination task from Michelle, it just dawned on me in just reviewing yesterday's meeting and how it progressed and I haven't been here for the last year, but I think one thing the group should decide on maybe now is, you know, based on the idea that there might be four or so meetings next year and you have all these issues on the board, is to come to an understanding whether you want to pursue like a subcommittee and report procedure because that is very time-consuming. You have seen the whole two day process today and yesterday as revolving around just working at the details of how to finalize reports, or if you are going to want to rely on summaries that are produced. And if you rely on the summaries, obviously, you can undertake more issues.

I think that is something that maybe should be decided now for the future of the committee.

MS. FASSINGER: I think with good facilitation and a drive toward consensus, though, that reports would not be as difficult to generate as has been because to generate the reports, we had to go back into, you know, very broad minutes and try to extract. If we can follow a process that we continue to hone down and develop short lists and then drive to a consensus, if we can't get there, fine. If we get to a, you know, total block, then we can look at agreements, disagreements, but my feeling is, and I have seen this in other meetings, if you structure the process correctly, it is not that time-consuming then to put the reports together and review them.

MS. FEIL: [Comment off microphone.]

MR. ECK: I would have comments on that or I would throw this open to the committee. I think I heard a lot of -- what is the term I am looking for -- disagreement, discouragement, dislike of the structure of that process early on.

MS. FEIL: I did, too.

MR. ECK: I think I agree with you that it will take that much control, that much imposed self-discipline or outside discipline to reach consensus and write a report.

MS. FEIL: We need to reach consensus, I think.

MR. ECK: Well, if we reach consensus and don't

write a report, to hell with it, but I think if we agree to that process at the outset, everybody needs to understand we are basically agreeing to bite back what we consider to be important information of some kind. We are agreeing to

impose self-discipline on ourselves or accept the facilitator's discipline.

MS. FEIL: Let me give you a little more. The process shouldn't be that you don't get to say what you think you need to say to explain something. What the process does do is set times for that. So, for example, if you put your options up there and then we go through the options and say is there any question about this option and no one says anything and then we are on to something else. You can't raise your hand in this process or you try to restrict people from raising their hands to say I don't really understand what you mean and then go into a 20 minute conversation about it.

So, it is not that it doesn't restrict conversation. It actually tries to encourage it and encourages it at time frames. So, that is what I felt happened last time and that is why we moved from that because it was taking too long and people didn't want to stay with that process.

MR. ECK: Exactly. And to a certain extent that is -- to a certain extent it is restricting both understanding and discussion in that if you don't keep up or you don't pay attention or you missed something, you have to either get the whole committee to agree to go back to something or you have to accept the fact that the majority got it, you didn't and you have to catch up on your own.

I have no problem with that frankly, but I want to see if all agree to that. Otherwise, I would like to see us agree to have some very interesting discussions with EPA in the room but refuse to produce a final report. If we are just going to talk and ramble, then let's not force ourselves through the structure of trying to hammer it into a five page discussion, you know, at the end and document the fact that we talked and rambled and then complained that we talked and rambled.

MS. FEIL: That is really my point. I mean, I will do whatever you guys want me to do, but you have to -- I have worked with a lot of these groups. It doesn't work both ways. You can't talk and ramble and then say why didn't we get any

consensus. You really need to be pushed and it is uncomfortable.

Joan.

MS. FASSINGER: We might be putting the cart before the horse. I would think that we would have to know what the topic is that we are going to prioritize prior to deciding whether we want to drive to a consensus or provide general feedback to EPA because I see, you know, a wide variety up there and there are some things that we probably won't be able to come to consensus but can provide very valuable feedback.

MS. FEIL: You may be right. Just keep this conversation -- I don't care if we answer this now, but I feel strongly that in order to give you what it is you are looking for, before we start doing anymore topics, I want to know what it is you are looking for and I don't feel like I do.

MR. ORUM: This is Paul Orum.

My sense of this conversation is that it is a conversation of a committee that probably shouldn't continue. I think I heard a whole bunch of very broad topics way beyond what we could possibly get to and no real sense of focus on just what it was we wanted to achieve. So, my answer would be, okay, let's not continue.

MS. FEIL: I guess he is talking about the topics up here. Okay.

MR. ORUM: I am talking about not continuing the committee in the coming year with this immensely broad, impossible number of topics to cover and no sense of what it is it means to cover those, no goal. I would say discontinue the committee. That is what I meant.

MS. FEIL: Okay. Anybody else want to comment on that?

For right now, for today, moving on from this conversation because I don't think anyone necessarily has an answer right now, do we want to continue what we are doing right here, going through these topics, maybe multi-voting or go back to what we were doing yesterday, continue going through the papers that you guys read.

Why don't we just take a vote on this, that we move one way or the other.

Who wants to continue this, what we are doing?
[Multiple discussions.]
Seven.

Who wants to go back to what we were doing yesterday and continue? Seven. Paul, Mike? Are you guys there? Do you want to multi-vote on these topics now or do you want to go back to what we were doing yesterday, which was going through the papers?

MR. ORUM: It is uncertain for me.

MS. FEIL: Excuse me?

PARTICIPANT: Uncertain for him.
MS. FEIL: Uncertain. Both uncertain?

PARTICIPANT: No, Mike said “yes” to vote.
MS. FEIL: Mike said “yes” to vote. Okay. That makes it eight for vote and seven for -- let’s vote.

We have one, two, three, four, five topics up there. Do this quickly.

[Multiple discussions.]
Everyone has three votes. Just come up and do this quickly and put a check mark -- put it as close to -- here, I will make a line.

[Multiple discussions.]
MR. SKERNOLIS: [Comment off microphone.]

MS. FEIL: Use the microphone.

MR. SKERNOLIS: Are we trying to pick three or are we trying to prioritize?

MS. FEIL: I think we are just trying to prioritize to see where most of the votes go.

MS. FERGUSON: [Comment off microphone.]
[Multiple discussions.]

MS. FASSINGER: Can you elaborate on that? That might help us come up with prioritization.

PARTICIPANT: [Comment off microphone.]

MS. FASSINGER: No. I think if it is possible to combine, then it might help that -- you know, we really only had three topics.

MS. DOA: The definitions are definitions of what is in the statute or what is in the rate right now and isn't

the future of the program based -- well, basically, should we go forward and add materials accounting?

PARTICIPANT: Any how.

MS. DOA: And how. And should we -- and I don't think -- provide a new overlay on all the chemicals, really change how we approach those. And it is not so much a definitional, strictly a definitional issue. It is a whole new approach to how you are looking at the chemicals on the list.

Then the third or the last one was your -- Susie?

MS. FERGUSON: Which one did you just describe? Which one did you think you just described? The overlay.

MS. DOA: One and then 2 as being really different things and then 5 I was asking about was your third one because I thought 5 –

MS. FERGUSON: The description you just said an overlay, a re-looking, how we are doing chemicals, to me, could be the last one, could be the first one and would result in us meeting to make recommendations on definitions in the statute to accomplish that.

MS. DOA: Okay. Now, the last one I see is like intelligent software is something like reg in a box. This is how you report -- I have used the Turbo Tax. I was calling it Turbo TRI idea, which is sort of a nuts and bolts, how do you report. The first one in terms of the overlay for the chemicals, I think, is a fundamentally different approach to the chemicals because what we say now is that if it meets the toxicity criteria, it is toxic. What Ken was talking about is take that whole group and make decisions on -- make -- I don't know. It might make decisions on whether cancer is more important than neurotox or neurotox more than cancer. I think it is a -- to me, it is a whole different approach. It is a fundamental thing versus a nuts and bolts thing.

Then the second one, I think, is this is what is in the statute. Now, we have interpreted it a certain way. Do

we interpret it differently?

MS. FASSINGER: Can we go through -- we are kind of approaching this from some kind of a disconnected -- we threw those up there but we really haven't gone through them. And I apologize if it is going to take maybe another ten minutes, but I think before we vote we have to have a clear idea on the scope so that we can see how these other 20 are incorporated in there. You know, we might be able to still combine some.

MS. FEIL: [Comment off microphone.]

MS. FASSINGER: No. I think we need clarification, again, on the list of five so that we can -- you know, as we had seen the list of 20 and discussed those a little bit more, we can see where they fit under this consolidated list.

MR. GEISER: Yes. Just on this combinational thing because I think it first acted like Paul said and that is if you get the categories -- I mean, one would to do this is to combine them all into one category and then to just do that. But, I mean, you lose your differentiation. You need to keep it broken out into enough things. Twenty was fine because I would like not to do all of the things that are up there for a meeting.

MS. FEIL: [Comment off microphone.]

MR. FEE: I think I heard Ken say keep it separated to 20 instead of grouping to five, even though some issues relate to each other and you can group them this way, it is still too broad a category. At least that is what I heard Ken say.

MS. FERGUSON: It is not restricted to current definitions and how EPA is interpreting them, but it could also include recommendations on revising legislative definitions to make the program work better and more specifically, I think, there are three elements to the definition of the law of toxic chemicals to work well together. The third is an anomaly that seems to have caused a lot of the issues that cause disputes.

So, looking at that one element of the definition may be very helpful at some point in time.

MR. BROMLEY: I look at de minimis being within that category rather than No. 1. I mean, to me it is a defini-

tional issue.

MS. FEIL: [Comment off microphone.]

MS. DOA: One can say, I mean, you need a legislative fix if you are going to have materials accounting, as well as having a legislative fix if you are going to fundamentally change things in the program. I don't know if it muddies things by having definitions be, well, not only is it the interpretation of the definitions, but it is how can we get Congress to change the statute so that the definition is fundamentally changed? I think that is more of the future of the program. But I don't know. It just muddies it for me a little.

MS. FASSINGER: I think it does come under -- if we could maybe just go through and give -- EPA provide their perspective on what each one of these means, it will probably help us know where -- before we start dissecting these too much more.

MS. FEIL: Okay. EPA, do you want to do that?

MS. DOA: Okay. Future of the program, should we add materials use? Should we add additional data elements on materials use? Is that clear? Okay.

MR. SPRINKER: Michelle, this is Michael.
Would that include things like perhaps a better characterization of fugitive emissions and other emissions like that?

MS. DOA: A better -- what do you mean, Mike?

MR. SPRINKER: Well, at this point, some of that is sort of a guess, I think, and would that be broad enough to look into an area like that? Hadn't we better characterize where some of this stuff is really going?

MS. DOA: Actually, I don't think so. I think it might be -- right, maybe in the definitions.

MS. NEWMAN: Maria, can I just add one thing on the future of the programs. I mean, I know a lot of these sort of are going to relate to one another and I am not sure if we are going to be able to avoid this, but I think to some extent it is just a question of how broad some of these issues are.

Like the future of the program, I think we wanted to have a big picture discussion of where we should be going and while we may, you know, want to in that discussion say that, you know, EPA should really be looking at the definition of the -- EPA should really be, you know, working on a legislative fix for that or something.

We might not get into the details of that in that discussion, but that is sort of the big picture. You know, you should be going in this direction or you should be pulling back in this direction; whereas, some of these other issues that we have got here amongst the five are maybe a little bit more -- get into more of the nitty-gritty of some of these.

I don’t think that we are going to be able to just say these are all mutually exclusive unfortunately, but it may be just a question of how -- at what level you deal with them.

MS. FASSINGER: As you are going through, could EPA give us an idea of the scope. Are you talking about only TRI or are you talking about, you know, getting back to a unified approach for this and as we go through -- because I think we had some discussion, you know, if we are going to change definitions, to try to change them so they would apply to different programs or to a unified program as opposed to just TRI and RCRA or future -- you know, only TRI or is that broader?

MS. DOA: I think for the future of the program -- well, when I say -- I think it may be TRI in terms of the database, but there might be authorities under different statutes that you use to collect the information to -- that is attached to the TRI, the way PPA require that information be reported under -- on the Form R and put in the TRI database.

Then this one --

PARTICIPANT: Can you read it, so that we can --

MS. DOA: Oh, sorry. Increase aggressivity on high hazard and less on low hazard. Ken left, right? Oh, right there. Okay.

My look at this, right now the program treats all chemicals basically as toxic. They meet the toxicity criteria. They are on the list. We have really stayed away from grouping the chemicals based on degree of hazard. And I am not really looking at persistence because that is separate, but degree of hazard. This idea would be to really change that and to look at the chemicals, group the chemicals into

high hazard, maybe high and low or high, medium and low. That is the type of thing and then based on the differences in the hazard, treat -- be more aggressive, let's say, maybe with enforcement or with outreach on releases and other waste management quantities for those maybe the high chemicals versus those medium or the low.

MS. FERGUSON: Clarifying question.

Do you view that one is limited by existing law or rules or would you want to consider where you are going and identify barriers to this future direction?

MS. DOA: I don't believe that it is limited by the regs or the law. There is -- you know, you meet the toxicity criteria or you don't.

MS. FERGUSON: So, you would apply existing definitional issues to Item 1?

MS. DOA: I think it would be a prioritization to that.

MS. FERGUSON: I don't understand the answer.

MS. DOA: It would be -- it meets the toxicity criteria. It is toxic, but we want to focus on things that are highly toxic, like lead, mercury, some of the organics. So, we will put more of our resources in outreach to the public on information on those chemicals. It might be also enforcement on those chemicals. Just put more of your resources towards those chemicals.

MR. BROMLEY: Susie, was your question about the scope of our discussion on that or was it about what she thinks is authorized presently under the statute?

MS. FERGUSON: It is the scope of the discussion, what you would get into under 1 versus 2 and are they the same or different in terms of –

MR. BROMLEY: So, it doesn't -- right now, Maria, the scope of the discussion would be whether it is authorized or not, we would be discussing it and maybe identify where we believe there may be barriers in the statute or whatever to put in certain of the recommendations, but the scope of the discussion wouldn't be held up by saying that the statute doesn't allow it right now and then you have to stop discussion then.

MS. DOA: Correct. There is nothing about the statute, I think, that would prohibit grouping the chemicals once they were shown to meet the toxicity criteria.

MS. FERGUSON: If there was something, could the discussion go forward?

MS. DOA: I think so, but I am infinitely familiar with this and I don't think that there is really that much that would -- unless you are looking at differently and saying there are some things that you think are toxic that we want to call not toxic or some things that we say meet the toxicity criteria that you wouldn't agree with.

MR. BROMLEY: Let me give you an example of the material use issue. There are positions that say that that is not authorized by statute presently. We would still be able to discuss it regardless of that position.

MS. DOA: Oh, sure. I, just based on my knowledge of this, don't think that is so much of an issue, unless it is the one thing I mentioned.

MR. COMAI: The materials used would be new data elements. Would that be part of the discussion?

MS. DOA: Yes.

MR. COMAI: And then when I think of increased hazard or high hazard, I always think of fence line issues versus in-plant issues or worker exposure versus the community exposure. Would there be a chance to talk about new data elements -- I think Mike Sprinker on the line said something about a better definition of fugitive emissions, well, fugitive for who, is, I guess -- I am putting words into his mouth but --

MS. DOA: Yes, we could talk about --

MR. COMAI: New data elements in terms of exposure and to really define "hazard," you would have to define the specific activity that the material is being used for and who was actually doing the activity.

MR. FEE: Remember "hazardous" is the definition of the inherent badness or not so badness of the chemical. I think that is what we discussed yesterday, as opposed to risk and exposure, which is separate from who is handling it, how close the fence line is. I am not saying that your concerns aren't legitimate. I am just saying if we are just looking at the definition of "hazard," the chemical has no bearing on where it is or –

MS. DOA: It might be what Andy is getting at might be captured on, once we group them, let's say, based on hazard, then for the ones that we considered higher priority or higher hazard, do we feel it is appropriate to get additional data elements to characterize some of the things that Andy is talking about.

MR. BROMLEY: Let me ask a clarifying question between 1 and 2. One, it seems to me, is basically, in EPA's view, is just a change of the existing program. It expands it or changes it or adds things to it. No. 2 is just really looking at changing things as the program exists today. If it is definitional and stuff, it would still be applicable only to the program that exists today. That would be the difference between 1 and 2 is 1 is application of whole new things. No. 2 is fine tuning the existing program.

MS. DOA: Right. And for instance, I think, with release you just take the definition and our interpretation and the discussion would be is the definition of -- our interpretation and the definition of "release" too limited and should we get things like the toxic in products that are ultimately released or is our -- a number of people have said that our definition is too broad, our interpretation of the definition is too broad, but it is the definition in the statute that we are talking about. That is my understanding.

Now, based on what we have just discussed, should toxic chemical -- Joan and Ken, should this still be here?

MS. FASSINGER: My concept was to talk about these things outside of --

[Multiple discussions.]

-- unified approach, which I really don't see if future of the program and future TRI only and definition is under current TRI, I don't really see --

[Multiple discussions.]

MR. BROMLEY: [Comment off microphone.]

MS. FASSINGER: But is that integrated reporting under the current -- or is that a new approach to reporting?

MR. BROMLEY: It could be both, integrating the program.

[Multiple discussions.]

MS. DOA: Energy recovery, this is -- is this the source reduction issue or is this -- okay, the source reduction. The de minimis, I assume, is to modify de minimis, such that you could apply de minimis to waste or just -- okay.

Outreach data products, my understanding of this is that -- what sort of data products do you think would be useful for us to come up with, to develop, in addition to the PDR? The PDR is our main one, but what type of thing should we be doing in terms of producing outreach? And by "outreach," I am looking at general public outreach and not outreach to the industry like guidance documents. You know, we are in the midst of doing quite a few of them. Okay?

Data quality, to me, is once you have a plan in place, once you -- and then people are still misreporting beyond that, I mean, how far do you go before we release the information in the different products, I mean, in sort of a tradeoff of more and more data quality, submitter data quality for the submitter versus when the data are actually released in the data release, when you can use the data for this type of outreach product.

MR. BROMLEY: And I think 4 would include, I think, based on what Ed had said previously, also not just what is being submitted to you, but how you guys look at it and how you combine it, aggregate it and whether that is accuracy within that, given the quality of the data that is coming in, the estimations, et cetera, that is also part of that subject.

MS. DOA: Okay. And then streamlining, integrating reporting -- the RCRA issue is mostly, you know, should we combine the TRI reporting in like a biannual report, get rid of the biannual report? Should all that RCRA waste data be combined -- should the TRI program be the mechanism for collecting RCRA data?

So, shall we start to take over the world? Okay.

Intelligent software, this is Turbo TRI. This is make it as simple as possible, sort of codify all that guidance for people, sort of the way Turbo Tax does, but better, and then toxic chemical we talked about before.

MS. FEIL: Are people clear enough to be able to multi-vote? Okay. Again, you have three votes. Use them

however you choose to use them. And just come up and put a little check in whichever boxes you want. Okay. Come up whenever you are ready to do that.

People who are on the phone, I guess you will -- maybe what could happen later is EPA could fax you the choices or –

MR. ORUM: You can fax to us on one page. We can then fax back to you later today, I would suggest.

MS. FEIL: Okay. Does that work, you guys? Okay.

[Multiple discussions.]

MR. SKERNOLIS: If we are going to prioritize five things, let's prioritize five things.

MS. FEIL: EPA, are you more comfortable with that? I think what I was hearing was that you wanted them to multi-vote. It is up to you, though. I think the truth is that it will end up with the same thing. You are going to have -- whatever gets the most votes is the No. 1 priority. Whatever gets the second most is the No. 2. You will end up exactly the same. Okay. I mean, that is what multi-voting does is prioritize. Okay?

MS. FERGUSON: [Comment off microphone.]

MS. FASSINGER: From my understanding -- and I guess I should really let EPA, but from what you said, No. 5 is more than just putting in existing reports onto a combined software package. It would look at much broader program issues into getting into a consolidated program also.

MS. DOA: I don't know -- it could eventually tie back to it, but I don't think that is the focus. I think this gets into, you know, under RCRA, you report things at the waste stream level. TRI is chemical specific and it is a way -- can TRI be used to collect the RCRA information?

MR. CHAMBERLAIN: I want to follow up with Ed's proposal to vote through 1 through 5 in terms of priority, rather than just multi-voting with three votes. I think you get a better sense of where all the issues lie, rather than just the top priority. I think this group ought to decide how we want to vote on –

MS. FEIL: Okay. Do you want to do that? Okay. Chair.

MR. FEE: Who would like to multi-vote as opposed to -- what is the other term? -- priority voting? Who would like to multi-vote?

PARTICIPANT: How many multi-votes do we have?

MR. FEE: Three.

MS. FEIL: Six people want to multi-vote. Who would like to priority vote? Seven.

MR. FEE: Okay. Priority vote it is.

Paul and Mike, do you understand the question? We are deciding as a group whether we want to multi-vote with three votes or –

MR. ORUM: I don’t care either way.

MS. FEIL: Okay. No. 1 is your first choice, right? Okay. Make sure everybody doesn’t -- okay. People have done that upside down. No. 5 is the thing that is least important to you.

MS. NEWMAN: I was just going to make one comment since I don’t have a vote, but I just want to point out that it might be useful to make No. 1 the first thing, say, that this committee discusses in this next year, since it is sort of the -- the way I see it is kind of the broad policy issues. It is sort of giving us advice on where our priorities should be in the future and, you know, once we could kind of establish that with the committee and, you know, get some ideas on what we should be focusing on, maybe that will influence, you know, what things we discuss next.

MR. CHAMBERLAIN: What I heard discussed earlier from Mike and from Susan was that this is a preliminary indication on the discussion this morning and then there may be some changes in those priority settings based on further discussion of the two work products that are yet to be discussed.

[Multiple discussions.]

MS. FEIL: Okay. You guys, the voting thing is over here and then what that corresponds to is hanging up next to it.

[Multiple discussions.]

Yes. One through five, No. 1 is what is most important to you. No. 5 is what is least important to you. So, the winner is the thing that gets the least number -- you know, the lowest count.

[Multiple discussions.]

Okay. No. 1 got 29. No. 2 got 28. No. 3 got 62, 4, 60, 5, 46. So, it looks like No. 2 wins by only a point, though. So, the two people on the phone could change that. No. 1 came in second. No. 5 definitely came in third. And then, again, the last two could change because No. 4 came in fourth but only by two points. And No. 3 came in last.

PARTICIPANT: Could you read those once again?

MS. FEIL: Let me just put them up so you can all see them.

MR. FEE: Let’s take a break.

MS. FEIL: Can we come back in 15 minutes, you guys?

[Brief recess.]

MS. FEIL: Okay. We have got, I guess, three papers to go over. Obviously, it doesn’t sound like we are doing all three today. Are we aiming for doing two today? And if we are, that would mean one finishes before lunch and if that is what you all want, then I will try to push you to do that. If it is not what you want, I won’t push you to do that. But I need to know what I am supposed to be doing before we begin.

MR. BROMLEY: Yes.

MS. FEIL: Yes which, Corey?

MR. BROMLEY: Push to get it done.

MS. FEIL: Push and get it done.

So, we are going to try to get through this Form R paper by noon. Are people okay with that? If not, forever -- okay. Let’s go.

MR. SKERNOLIS: We didn’t finish the other issue.

MS. FEIL: Excuse me?

MR. SKERNOLIS: We didn't finish the other issue.

MS. FEIL: Oh, we didn't?

MR. FEE: I think, Ed, you are going to have to just state the issue, but I think we ought to move on because if it is something that is going to cause any substantial discussion, we are -- it is going to be new ground anyway, so –

MR. SKERNOLIS: No, it isn't.

MR. FEE: Okay. Well, state the issue.

MR. SKERNOLIS: Well, as a point of order, these reports are presented to us to review. If any of the reports missed an important issue, I think we are entitled to raise it as being added to the report, not just to review it in the subcommittee. And that is the spirit with which this is offered.

And it isn't new ground. It is simply something that we think -- a number of us think the subcommittee missed in its initial report.

The issue is the tabulation of off-site transfers of releases and the inclusion of those releases in the whole states' totals that was changed in the last PDR by EPA and which we discussed at the June 30th meeting and a number of us raised concerns and criticisms of that change to the process at that time.

I guess the idea if we are going to use the format of the report is that EPA should go back to the old system and not tabulate off-site transfers as the generating companies' releases and not include those totals in the states' release totals as such.

The concerns we have with what EPA did is an easier way to put it, which is, first, we think it is going to terribly complicate double counting problems when the landfills begin reporting in 1999.

Second, this is probably the highest priority concern than even I have with Item No. 2, is some of us believe that it misrepresents and misinforms the public on where releases actually occur and, hence, where the risks may actually

be present from those releases.

Third, I think it creates an image that states who now have to report land disposal within their states for TRI constituents that may not originate in their states, may appear to be losing ground or failing in their pollution prevention programs, even though the waste generators are from outside the state.

Lastly, it seems to turn TRI into a tracking system, which we never understood was ever in a statute or any other policy call by EPA, that we can start watching where these wastes go through the kind of treatment process to disposal process or whatever.

So, those were the concerns raised by some of us at that meeting and we just wanted the record to show that as part of the PDR report.

MR. FEE: Maybe the PDR group can flesh that out and stick it in the draft. We are all going to be reviewing that draft. So, I think the PDR group will work with you or anyone else -- and it is an issue –

MS. FERGUSON: Point of order. This would be, I would think –

MR. FEE: Well, do we have time to actually put all the language down now. I mean, if you want to do that, we can.

MS. FERGUSON: If there is no disagreement with the language, why doesn’t Ed give it to me and we will send it out in the next draft for the committee to edit, as opposed to go to a subcommittee back to the committee?

MR. FEE: Okay. If you don’t feel that it is needed to, you know, have any further discussion of the language, if you do that, what you run the risk of is that then folks have a problem with the language. That is all I am saying.

MS. FERGUSON: As someone who was present at the last meeting, this was part of the discussion –

MR. FEE: Absolutely. And I agree.

MS. FERGUSON: -- to be a reasonable addition to the

paper. I think the question would be does anybody in the committee disagree or want to add to the concerns or merits and what way to do that. Again, I would suggest rather than a subcommittee that we either just give a language and edit or add to it or raise comments on it next time as part of the –

MR. FEE: Yes, that is fine. That is fine.

First of all, do folks understand the issues as Ed has pointed them out? Okay.

Does anyone have any like additional thoughts on that, merits, concerns? If not, then I will ask Ed to submit the language to us to put it in and, hopefully, then when people see it all in writing, it won't need to be re-rung up.

[Multiple discussions.]

MS. FEIL: Okay. Are we going to move on to the Form R paper?

Agenda Item: Discussion/Revision of Draft Prepared by Form R Group

MR. FEE: Jon, I would like you to, if you would, as the group leader, kind of start things off and go through each item. You know the business better than I do.

MR. STONE: What I would like to do, and if there is no problem with it, I received Paul Orum's comments on the final draft. I think we go through them in parallel. I believe everybody has a set of what I call Draft 3 Final 8-10 and also comments from Paul Orum on the report, also dated 10 August. If we go through those in parallel, it may well speed up the process.

I believe, yesterday, everyone also received a copy of Addendum A, which I failed to include in the original draft. That comes up in, I believe, Section 3 of what we are going to be discussing. Susie, you have it in the computer so that changes can be made?

MS. FERGUSON: I don't have Addendum 3, but I have the –

MR. STONE: Everything else. Okay.

MS. FERGUSON: [Comment off microphone.]

MR. STONE: Okay. I think what we can do is incor-

porate Paul's comments right into my hard copy. We are going to have a discussion on each of the items and then we would just incorporate as we want.

The subcommittee met and then we have exchanged the drafts and basically what we were looking for was areas of agreement with some subtle differences that show up throughout the report.

Looking at No. 1, we feel that there should be some sort of identifier for all reports specifying a facility that would cross the various types of reports that are filed with EPA or other regulatory bodies. That is Item 1.

MS. FEIL: Everybody okay with that?

MR. FEE: That is a recommendation?

MR. STONE: Yes. I should also point out that we -- "we," probably myself and Rick -- will then put this final thing in the same format that the other groups are using.

PARTICIPANT: [Comment off microphone.]

MR. STONE: No. 1, the key facility identifier.

Do you have any concerns or questions?

MR. SKERNOLIS: Are you asking me if I have any concerns with how 1 is worded?

MR. STONE: No. Do you have a concern with Item 1? What we will try to do is go right straight through this. When we have changes and concerns, then we will put a fourth draft to the full committee.

MR. SKERNOLIS: I don't have concerns with the two lines of Item 1 is the way to phrase this. Are you asking me whether I am concerned with something other than that?

MR. STONE: No.

MS. FEIL: Jon, can I ask you a question to make sure everyone understands.

You said you were going to put this in the same format, I guess, as the other. Are you going to add merits and concerns like the other paper?

MR. STONE: Hopefully, it is going to come right out

of what is here. We are not going to add –

MS. FEIL: You are just going to put it into that type of format.

MR. STONE: Put it into that context. That is correct.

MS. FEIL: So, if people have a concern, that is something that might get added –

MR. STONE: It should be addressed right now, yes.

MS. FERGUSON: Complete the single facility ID project is also a recommendation under “Burden Reduction,” the first item there. And there are some pros and cons discussed. So, if this key facility identifier, I think, and my opinion is the same, why don’t we strike it here and let the discussion on burden reduction suffice?

MR. ORUM: I would prefer to see it listed in both places.

MS. FASSINGER: We can list it here and then maybe reference the other paper for a more detailed discussion, since it is all going to be together anyway.

MR. ORUM: Not everybody will read all of the papers. They may read different ones for different purposes. It is very short here. If it were lengthy, that could be an issue, but it is very short and I would prefer just to leave it along and move on.

MS. FERGUSON: It is short now but if someone adds a merits and concerns discussion, it would be longer and duplicative of what is elsewhere, but we can do whatever.

MR. BROMLEY: I guess it is just a question of, Jon, how would you write that in the format that you are talking about that? Just an idea. I don’t want exact language.

MR. STONE: It will have a heading, key facility identifier, and then what it means. And since there are no real concerns from our subcommittees, there will be no areas underneath it, where her group has a series, then it will be fleshed out. We are just saying that the Form R subcommittee believes there should be a key facility identifier. And as a

cross section, our whole subcommittee agreed to that.

MR. BROMLEY: The concern would be -- the issue would be key facility identifier. The idea would be there should be a key facility identifier.

MR. FEE: The issue then has to be that under the current system, it is difficult to make some changes to the Form R because you don't have the key identifier, that some of the changes that one would want to make to the Form R could only be done if you had a key identifier. So, issues are sort of like statement of the problems. I mean, saying

key identifiers, I guess it is -- you could simply say the lack of a key identifier is the issue.

MS. FASSINGER: Consistent with the paper we went through yesterday, yes, the issue would be that it is not on there and the idea would be pretty much what is written here.

MS. FEIL: Are people comfortable with that?

MS. FASSINGER: I think we are trying to keep this close to have what we have written here and just move the same phrasing possibly into a category that –

MR. BROMLEY: I was asking that just to hear that, but the way it is written, having useful potential for improving reporting practices doesn't sound like a -- it is pretty vague, I guess, and I just wanted to see how it would be written as an idea.

MS. FEIL: Do you want to address that or are you comfortable? Are you okay? Okay. Let's go on to No. 2.

MR. STONE: No. 2 goes back to the root of the whole issue that we have discussed repeatedly at various meetings, is how do we go about reporting in Section 8, which was one whole section. And, again, this is how our subcommittee fleshed this out and, again, it will come up as an issue and then there will be ideas and here you do have several concerns listed. I believe, speaking for the subcommittee, these are areas of agreement, basically what we were looking for in the subcommittee. Rather than agreement, disagreement, we were trying to come up with areas of key agreement of our report.

MS. FEIL: Any comments or problems with that?

MR. STONE: Everyone should have a copy of Addendum A, which was submitted to our subcommittee and I apologize, I failed to include it with Draft 1 or 2 and it finally surfaced and I now have it with Draft 3. That is Issue 3. This begins, “Differentiated territorization...”

MR. STEIDEL: This is the first time and it is going to come up again several times in this report, referring back to specific points of the minutes and changes in the minutes. I think somebody made the comment yesterday that they didn’t want that, that they wanted that text brought forward into the report as opposed to referring people back to the minutes. Is that valid? Is that the understanding of the group?

MR. ORUM: There is a whole lot of text at various places in the minutes. I don’t think you would want to bring that up into the report, but it does help to refer people to where it was. It could be done as a footnote or something, but there is a whole bunch of messy tracks and ideas that stops back in the minutes. Maybe you could quote something, but there is a lot of junk in there.

MS. FASSINGER: I kind of agree with Paul. I think what is difficult in particular about this paper is that we did have such extensive discussion and so much material provided, I think the idea here is to provide more of an executive summary that we raise, as much area of consensus in what we talked about.

All of the additional information would either have to be referred back to minutes or be put on as, you know, an appendix or something but to bring all that forward would make this absolutely enormous and I think somewhat defeat the purpose of what we are trying to do.

MR. BROMLEY: Could you not just paraphrase what you need to, rather then bring them forth in the full text. I mean, basically what we are trying to do is summarize what the idea was, what the issue, what the idea was and if there is any concerns or merits to it. If that can be done rather than making references, footnotes, et cetera, I think that would be better.

MR. STEIDEL: I think what it is doing here is that it is -- as Joan said, we have tried to bring the meat of the issue forward, but then allow the reader to go back and find

the voluminous notes. Then I would like to point out that everybody needs to make sure that some of these minutes are finalized, but make sure that the minutes then reflect what we want to represent in this section.

MS. FERGUSON: My suggestion would be -- or question is are we going to include the minutes as an appendix and reference it that way?

MR. SKERNOLIS: Who are you asking the question?

MS. FERGUSON: The group at large. Is there a preference in terms of how to handle the minutes? Are they going to be part of the bibliography, appendix in terms of final structure of the document? Is there a preference?

MR. SPRINKER: I don't think it matters what you call it but they should clearly be attached to our report.

MR. SKERNOLIS: I want to understand what the process of the subcommittee was in what I am reading here. Jon, what I hear -- I hear two different things from you and Joan. You are saying that the subcommittee decided unilaterally what they all agreed on and incorporated here. Joan said it is just a summary of what happened. Those are two different things.

What I want to know is in your description of Item 2, does that reflect the concerns and merits of this issue that the minutes reflect as opposed to what the subcommittee feels ought to be in the final report?

MR. STONE: The No. 2 -- and I am sure the subsequent ones -- this is the consensus opinion of the subcommittee. We tried to come up with areas of agreement rather than break it down into areas of agreement, disagreement. We wanted to bring something positive in the report.

MR. SKERNOLIS: But you realize that since this is a report for the whole committee now, the problem you pose for us is does it reflect the valid concerns of other participants during the active sessions on these issues, that you have chosen to eliminate because you didn't agree with them; whereas, and we didn't do that, I don't think, depending on the other groups. They reflect what we could cull out of the minutes as valid concerns or valid merits, not our views on what we thought about them.

MR. STONE: Which is what we are reflecting on now when we come through with the same ideas, issues, merits, et cetera. What we are actually providing is a consensus agreement of our subcommittee to bring before the committee as a whole and if there are areas of disagreement, that is what we want to here and how to include them in the final subcommittee report.

MR. STEIDEL: It is summarized in the last sentence of that opening paragraph. This report, however, only details those recommendations, which became a focus of discussion, which showed promise for wide agreement. If these are not detailing wide agreement, then we are looking for input to write this -- to change the report.

MS. FEIL: Does that answer your question, Ed?

MR. SKERNOLIS: Yes. My problem is I am very troubled by that because what we are basically doing now is dealing with a subcommittee's view of what was important rather than the subcommittee's summary of what the committee thought was important as reflected in the minutes.

MR. ORUM: That is not correct. This is the subcommittee's view of what the areas of wide agreement were shown in the discussion, then in minutes. Yes, it is our judgment as to what those areas were, but that was exactly our task.

MR. SKERNOLIS: No, I don't think it was, but can you tell me how you determined what was wide agreement?

MR. ORUM: We used our judgment. We looked at it and that is the thing that you should do in looking at it now.

MS. FASSINGER: Just to clarify, I agree with Paul that we did not try to come to new consensus within our group, but we tried to go back. We went through the minutes and tried to find the areas where there seemed to be pretty general consensus. This should reflect that and it reflects the input of the committee and through everything we have been through. So, if there are concern areas based on this new structure that we have been provided, we can add concerns. This should pretty much reflect the merits and the ideas. So, it seems that absent a format that the concerns are the only thing that weren't included here that could be raised now as we move along.

MR. ECK: I would just like to suggest that we continue going paragraph through paragraph and add or delete or modify rather than continuing down the side street we have taken.

MS. FEIL: [Comment off microphone.]

Ed, are you okay with that?

MR. SKERNOLIS: No. And I don't think it is a side street. I think it is fundamental to what this report looks like. We have had an extensive discussion about how this report was going to be composed in the last meeting on the last day and one of the things that I heard everybody agree with at that meeting is we did not have a system for determining what was consensus, where there was general -- because we didn't even vote on 99 percent of the issues. So, we didn't even have a sense of whether most people felt was it just the loudest people felt good about it or whatever and that characterizing the issues that way was going to be problematic in our reports. The only thing we could do would be to do a fair presentation of all the ideas, the major ideas, the identifiable merits and the identifiable concerns.

Now, if we want to take now to vote on those, that is different, but I am very troubled by the notion that the subcommittee's judgment of what was consensus or what was generally agreed upon is going to be implemented for this subsection and the other two sections are not going to have any of that because I don't think we have had a process by which that could be determined.

It is not -- I mean, they are all honorable people. Don't get me wrong. It is just that, you know, there is no way for you to tell me whether there was consensus or whether most people agreed with one issue or another because we didn't have a system for determining that.

MS. FEIL: Mike and then Ken.

MR. FEE: I wanted to respond and say to Ed, I was wondering if you could make a suggestion as to how we can use this product to get to where you feel we need to be or what you are saying is that you feel to do that, it would take more time than we have here as a whole committee?

MR. SKERNOLIS: Yes. My suggestion would be that we review this as -- not as a statement of general agreement or near consensus or anything else, but just the subcommittee's view of what the discussion was and then we identify merits or concerns of the completeness of the issue, but the characterization of that issue, of those merits or whatever, be stricken from the committee's report.

MS. FERGUSON: And if there are ideas that were screened out because they weren't viewed as having a broad set of support, that they be added back in with some merits and concerns on those ideas. I think that is what may be missing are those that didn't make it to the report.

MS. FEIL: Are people comfortable with that idea? Mike.

MR. ECK: I am comfortable with that idea as long as the deciding factor for the content of the report is our vote in this room, a reference back to the meeting records or some other task. In short, we decide today or in a subsequent meeting, based on who is in this room and our best recollections what we want this report to say and that is done by simple vote, by people as we have proposing changes or corrections and the rest of this committee, this whole meeting, agreeing or disagreeing to the language, that we do not refer back to the meeting notes, that we do not try to do a reading of the record and an interpretation of the record.

MR. SKERNOLIS: I agree with that 100 percent.

MS. FEIL: Ken, do you want to add to that?

MR. GEISER: I think I appreciate your principled issue there, but I think that what we have before us is something we just need to work with and we can be a little overly precious. How exactly each one of these committees actually produce these things is probably something that is akin to making baloney.

We have in front of us a document and I think you are right. The best way to deal with it at this point is just to go through it, try to figure it out, does this represent what we as a committee want to say and just go forward.

I appreciate Mike's point as well, and that is not use a lot of referencing back, but just is this the report we want to write. So, I would say let's just go forward section

by section as we were, recognizing that is what we are trying to do.

MS. FEIL: Let’s take one more comment and try to move on.

Corey.

MR. BROMLEY: I guess to further that is to say let’s go through this report, review the issues, ideas in here, maybe add a few concerns and merits to it if they aren’t reflected there and let the -- potentially let the subcommittee go back through the minutes or whatever to find out if there are things that are not reflected in this that were discussed, issues that were discussed.

I mean, to me, No. 2 basically has an issue that there is a concern of year to year changes not being accurately reflected. The idea is that inserting codes into boxes be provided and then we need to discuss the merits and concerns of that. That is kind of the breakdown as I see that particular issue.

Now, whether there were other ideas to address that issue of having lack of information to show year to year changes needs to be fleshed out maybe by the subcommittee to get the process going without us having to work on all of that.

MS. FEIL: Does that work for everyone?

Okay. Let’s move on. Back to No. 2. Is that where we are? Okay. Are there comments, issues –

MR. FEE: First of all, I would like to help characterize No. 2 in terms of issue, ideas. Of course, there are not necessarily any merits and concerns fleshed out, but I did want to note, will we be listing the 14 or several reasons in the document because I know we enumerated them. Can we list them as part of the idea? Or was there a reason why you didn’t want to list them?

MR. STONE: There well may be more because, remember, this was the Canadian list and we want to make sure that we are open to evaluation of what might fit better in the American TRI reporting versus the Canadian. And to keep the thing from being too voluminous, we did try to just give the consensus that we believe that the EPA should look at what the

Canadians are doing, how to differentiate with boxes. There may be more than 14. There may be less than 14. But we feel that something like that should be incorporated into the TRI to define why there are differences year to year without being specific and limiting to those numbers.

MR. FEE: Okay. Because I know we had sort of actually enumerated some possible reasons why the data would change. Those ones that we identified that are in the minutes are all represented in the -- if they are all represented in the Canadian's approach, the Canadian list of 14, if that is what it is, then I am okay with it. If not, then either I would like to see those specific items brought forward or referenced in the minutes. Do you see what I am saying? I don't know if there were some ideas that were brought forth, some specific items for change that aren't in the Canadian model.

MR. STONE: I would have to go back and look at the minutes, but I don't believe that we added any. We had some discussion on whether some of them had merit as to be part of ours, but I don't believe we increased the number.

MR. FEE: Probably Tom would know best because I know he is real familiar with them.

MS. FASSINGER: Well, I was part of the group that talked about the different options and although we had a list to work with that was existing and gave us a starting point, we did not want to close the options with just those that were presented because there could be more.

Again, getting back to the context of the papers to look at what -- to present the ideas in a more conceptual manner than get into a lot of nitty-gritty detail because, again, there was so much discussion. So, if we are going to start pulling in a lot of detail, this is going to become a very lengthy report.

MR. FEE: Okay. That is fine.

MS. FEIL: Any other comments?

MS. SULLIVAN: Just an editing type of comment. The referrals to the previous minutes, I would like to see dropped. The way it is currently phrased, you know, they are at the beginning of the statement and I feel that when I read that, I feel like I ought to go get those minutes and that is not usually a very easy thing to do. I would rather see that

dropped and just explain the issue, explain the idea and merits and concerns.

MS. FEIL: Everybody okay with that?
Okay. No. 3.

MS. FERGUSON: Do I understand that Addendum A becomes the replacement 3?

MR. STONE: I was thinking about what I was reading. I am sorry. The answer is “yes.”

MS. FERGUSON: And then we have -- okay.

MR. ORUM: This is Paul Orum. I have just read through Addendum A for the first time. I find it different in some aspects than what we had put before. I think a

couple of specific suggestions would help and then a concern.

The specific suggestions would be that with the material from the original 3 on the front of the page, not Addendum A, site specific minutes, again, as footnotes, those would be very helpful as would the language be helpful that, you know, the entire committee had looked at that issue a number of times. That Addendum A as most committee members agreed, but that is not correct because we went over it several times that it was judgment of the entire committee and where we have the opportunity to highlight such things, it would be helpful to highlight that agreement.

The broader concern is in the big third paragraph on Addendum A. I am not sure that really fully characterizes the discussion that we had. It leaves me with the sense that there was a whole lot of -- it leaves me with a greater sense of optimism over the possibility of doing it this way, although I have got to say there may be a difficulty defining our terminology and criteria.

I think that needs to be further simply emphasized because the way we left this part in my memory was that it was simply very difficult to put many different environmental media into a couple of categories and to define what was bioavailable and what was not and so forth.

Does that make sense? Since I am not in the room, I can’t, you know, see reactions.

MS. FERGUSON: Paul, I did not follow your reference to entire committee versus most committee looking at Addendum A when you were distinguishing terms. I don't know that it matters if the format is going to be changed by the group to reflect an idea with merits and concerns.

I think what we will want to do is verify on the merits and concerns that the issues discussed are represented there. I think I would get away from any words like "entire" or "most," and just try to go to more neutral presentation.

MR. ORUM: I would agree with that definitely. As I said before, I prefer that approach. However, where there was complete agreement on a particular item, unless somebody objects, I don't -- it would seem helpful to -- but I would be easy on that either way.

MR. SKERNOLIS: One other comment, Paul, on what you said, just in terms of the record. I think I agree with most of what you say, but the last point that you were talking about, Item 3, where you said the way we left it was -- and I am paraphrasing, I think, is something along the lines of it would be difficult to differentiate land disposal from other media.

With all due respect, I think that was the way you left it. I don't think that was the way the committee left it. I remember your saying that that was your concern, but –

MR. ORUM: That is not what I meant here. If you look in Addendum A, third paragraph, the great big bulky one, the second sentence, it says there appears to be broad support for this approach. That is the kind of thing, I guess, that could come out in lieu of discussions of the simple ideas that merit or demerit of -- then it says the committee has difficulty deciding on the terminology and criteria to use for making this differentiation. That doesn't refer to land disposal alone. It refers to the differentiation, the entire differentiation into two different sections or subsections to indicate whether something is immediately bioavailable or not.

MR. SKERNOLIS: Okay. Fair enough.

MS. FEIL: Any other comments on that one?

MR. SKERNOLIS: I just have a question as where are

we leaving this issue of the -- that Paul has raised and Susie has raised and others have raised and I raised regarding the terms “broad support,” “general agreement.” Where is that with regard to –

MR. STONE: I believe that when we put this into areas of issues, merits, concerns, that terminology will be completely removed.

MS. FEIL: Vicky, did you want to say something?

MS. SULLIVAN: I guess so. You have us well trained.

Is the procedure going to be that the full committee will see this redrafted because it will take some substantial, you know, reformatting and redrafting? That is my question.

MR. STONE: I don’t believe it is going to take that much time. I am going to be in the office for the entire next week. I hope to have a draft from Susie today, which she is putting in her computer. I hope to have that on disk. I can then break out the discussion today into ideas, issues, merit, concern and really, as Joan said, basically the merits are here. What we are missing are the concerns. That is what is going to have to be really added to what we have here.

We have three of the four items.

MS. FERGUSON: Understand, I am not making any -- I haven’t heard any changes saying delete or add anything to the language, other than you all would be reformatting it and eliminating some terms. So, what I have is what we started with, except for Addendum A is in hard copy and not in the computer.

MR. SKERNOLIS: I just wanted to add one thing and I guess it goes into Item 3 as a -- I don’t know if it is a merit or a concern, I guess, which is one of the things that was discussed is that with regard to this issue of the committee having difficulty deciding on terminology and criteria, one of the notions was that EPA may be in a position to make those decisions because the committee may not have the expertise to make those distinctions.

MS. FEIL: Wilma.

MS. SUBRA: The concern I have is Jonathan said he was going to go back to the office and put together this in

its appropriate format and develop the concerns. I think it needs to be the work of the whole group as opposed to just the perspective of one of the stakeholders because I know those are the important issues when we worked through ours, that everyone had input and issues, as you saw yesterday, when the ranking issues came up. So, I would like it to be a product of the whole work group.

MR. STONE: I think I probably over spoke, yes. The way we -- Rick wrote the original draft. We got comments. I wrote the second draft. We got comments. The final draft then went to EPA for total distribution. I would follow exactly the same format here.

Once it is formatted in the proper terminology, it will go to the subcommittee for review and then to EPA, which will disseminate it to the entire committee. Rather

than just me writing it and sending it to EPA, the subcommittee will get full review first.

MR. FEE: And then at that point, then we would add concerns -- those of us that are in that group would then add concerns if we felt we had them.

MS. FASSINGER: We want you to give concerns now so we can get as far as we can with it.

MR. STEIDEL: I guess from what I hear then, I don’t know why we want to continue with it. We might as well stop Form R, rewrite it and then put it back out. I have the feeling we are going to hit the same ground twice. So, why don’t we just stop Form R, let the committee rewrite it, restructure it and send it back out again. We have already said we are not going to finish today. I think our time would be more spent I guess now going to burden reduction.

MS. FEIL: How do people feel about that?

MS. SULLIVAN: I tend to agree with this. I have a hard time coming up with concerns on the items in Addendum 3 the way it is currently written because, you know, I am not sure what all the ideas are going to be that I am going to have concerns with or merits for. So, it is difficult at this time.

MS. FEIL: Is everybody -- Susie, did you want to

say something?

MS. FERGUSON: No.

MR. FEE: Who is in favor of tabling Form R and allowing the subgroup to work it up into a format that we have had in the PDR group and go on to burden reduction?

MS. FEIL: Okay. Let's move on.

MR. ORUM: This is Paul. May I simply request that every committee member go ahead and read through this, write comments in the margin if you have one and give it to any of the subcommittee members and maybe to Jon Stone. I mean, don't let that task go by because it is always easier earlier than later.

MS. FERGUSON: One comment for the group. The only thing that I have added to this draft is a bracketed sentence that says "Add idea that EPA may be in the best position to make the final decision on criteria to distinguish the precise characterization." And that is now under 3 for this group to deal with as an idea issue. Okay?

Agenda Item: Discussion/Revision of Draft Prepared by Burden Reduction Group

MS. FEIL: Okay. Want to move on to burden reduction? Everybody have it?

Who is the lead person in that group? Susie. Okay.

MS. FERGUSON: Burden reduction starts with Issue No. 1 in making changes in how information is provided to EPA. The issue identification and significant burden reduction to those facilities who supply the TRI data, as well as to users of the TRI information could be achieved by making changes in the method used to report the information to EPA.

Four overall -- and I questioned the group -- I don't know if we want to use the word "idea" or "recommendations." Either will work here, but the group had four ideas that they culled out of the minutes. Those were move to a turbo Form R, complete the single facility ID project, integrate environmental reporting to avoid duplication and use consistent chemical nomenclature reporting units and time frames.

You also have -- and we can call this merits instead of advocacy discussion, section, and then concerns. With that layout, any additions, changes, comments?

MS. FASSINGER: I see a couple of things here. One is it does appear to have, again, qualifiers as far as consensus, such as most of the committee. So, just a general comment. As we go through, we probably need to strike that and itemize a little bit more.

Also, consistent with the PDR, under the PDR format, the issue is kind of a major issue, but these four recommendations under that format would be detailed with the pros and cons rather than having, you know, one pro and constitutional for the whole idea. So, if we are going to try to be consistent between all of these papers, we might need to keep that in mind.

MS. FERGUSON: Is that a recommendation to change the format or are they close enough to accept?

MS. FASSINGER: No, I think it is a recommendation, if we are going to go with a consistent format that this people also be consistent with that format so that pros and cons for each one of these ideas are broken out under each idea.

MR. FEE: I second the motion to do that.

MS. FEIL: Are people in favor of that? Okay.

MR. FEE: Is it possible, Susie, to -- in each of these four items listed as ideas are easy enough to understand, but then everything is lumped in that advocacy discussion and the concern. Is there any way you can pull out the given item that might, you know, bracket to say this is a merit to Idea 1, to Idea 2 or Idea 2 and 3?

MS. FERGUSON: I think some of the sentences apply to different ideas. I think we probably grouped them in as a paragraph as opposed to the individual. So, we can -- there are two ways to do this. I can do it. The subcommittee -- actually this one David worked on this piece of it. We can reformat it and present it back next time or if we want to go through the sentences and say that is Idea 1 and 2 and 3, it doesn’t matter to me.

MS. FASSINGER: I don’t think I was recommending that we have to go through and categorize each sentence here. I think the subcommittee can do that. Again, it is just the general recommendation was for agreement between the formats.

MS. FERGUSON: Do you want to look at the discussion section to see if there are things that you disagree should be there or things that are missing at this point in time or do you want us to reformat this also more specifically and bring it back for the full committee as a whole, if that would be easier?

MR. GEISER: This report from this committee is getting more and more sophisticated. I mean, we started out a couple of meetings ago realizing we wanted to make a report. We realized that it was very late in the process to be making a report from a process that never intended to come out with a report and now we are trying to go back over the whole year and try to produce a report.

I am an advocate of not spending an inordinate amount of time on writing a report from something that was sort of not designed for having a report written from it and trying to create something out of this and particularly for not doing it as a huge body of people trying to write that report.

So, my own feeling would be not to change this a great deal but go back and just change some of the words so that you do end up with the PDR words in here, meaning merits and concerns and ideas, rather than recommendations and things like that. But the idea of breaking these all out and all, it seems to me we are just getting awfully editorial on something that -- maybe other people feel that it is really that important. I think the sense of the discussion is what we are trying to capture and not create some document that is going to do really well years from now.

MS. FERGUSON: Well, the other alternative is to combine all four ideas as an idea of terms of -- you know, I don’t really -- I think we can make some as suggestions, but I think I agree with you, Ken, but if the spirit of the merits and concerns is captured and if the ideas are related enough to capture, then fine. If they don’t belong as an idea, maybe we should delete it.

MR. SKERNOLIS: I agree. As a matter of fact, that

was going to be compromise suggestion, Joan's and Ken's position, which is we can take the four recommendations and move them in as part of the issue identification, take the advocacy, call it merits, take the concerns, leave them a bullet item and I think we have got consistency and the message.

MR. FEE: You are saying -- you are taking the four what are called overall recommendations, which we have sort of now started calling ideas.

MR. SKERNOLIS: As part of the issue identification, just roll them up as these were some of the --

MR. FEE: Ideas. Separate from the issue.

MR. SKERNOLIS: But that we don't need to go through the chore of parsing out the sentences within the advocacy --

[Multiple discussions.]

MS. FERGUSON: The issue stands. Item 1 becomes your idea. Make changes in how the information is provided, including blah, blah, blah, blah as examples and then you are done.

MR. FEE: It is just my personal view that they are four ideas separate. I would not combine them into one idea. But just calling them four ideas, boom, you are done, leaving everything else as merits and concerns lumped, I think that is the compromise and why don't we do that?

MR. BROMLEY: Can I just change also the qualifiers there that most committees felt, some committee felt, et cetera.

MR. FEE: Yes, that kind of language.

I do have one specific item. The Idea No. 1, move to turbo Form R, I think that language should be different. I don't think that is appropriate to convey the idea. I think you would want to say move to –

MS. FERGUSON: We have a more long worded original than -- we were just trying to make a bulleted thing that fit neatly on the page.

MR. FEE: I think it is good for us to understand but I don't think it is appropriate for reporting –

MS. FERGUSON: I think the intelligent, integrated data system that does error checking is the concept and –

MR. FEE: Intelligent software is what I envision to be the terminology that would convey that. That would be my suggestion.

MS. FEIL: Okay. Any other issues on this No. 1?

MR. ORUM: I think only one thing -- tell me if I am in the right place here. We have Issue 1, discussion and then concern. One of the things that I see raised in the concerns as an example, removing parent corporation information is to me not something that should be raised in a concern, but it is in itself an advocacy position because that, in turn, raises a concern.

I would prefer not to see this -- I mean, this is just -- because for me it is a big, red flag, it is just a major issue to be able to track corporations both environmentally and for accuracy and, yet, it is almost stuck in there suggestively. I would prefer that if it is going to be put in that way, it would be an advocacy point itself and then the concerns about it would be lifted far more simply; that is, just be taken out.

MS. FASSINGER: Paul, can I ask a clarifying question?

MR. ORUM: Yes.

MS. FASSINGER: With regard to the parent corporation information, would not that be inherent in a facility identifier, that you wouldn’t want to have duplicative data elements?

MR. ORUM: Yes, clearly it would. Conceptually there is a way to state this is that if you had a facility identifier, you would have uniform information on industry sector facilities, locations, contact, address, whatever those items may be, which is a very different idea than removing a particular item, which is what this suggests to me, unless I read it wrong.

MS. FERGUSON: Paul, I think the concern that was trying to be captured here was an expression from some participants through the minutes that let’s not rush in and do a whole lot of changes, but there are some small things that could be done better that are helpful that may reduce burden a

little bit.

I think that was more the nature of the concern than doing everything all at once. So, perhaps a rewording of the issue to capture that would be warranted, but it wasn't to focus so much on the parent corporation information as much as it is that the breadth of change taken on at one time may pose burdens.

MR. ORUM: Okay. I just wanted to express that in my opinion to do these small things which undermine the scope of meaning of a facility ID number and the basic information that would be attached to that, just moves in the opposite direction in my opinion from creating an intelligent software that links that information very simply. This is a different idea. It is one that raises for me many important concerns.

MS. FEIL: Anybody want to respond to that?

MR. BROMLEY: Let me respond to that because that basically -- I brought up that issue during the committee's discussion and I agree with Paul that it almost is in a separate area. It was brought up partially as somewhat as -- maybe Paul is bringing it up as a different idea issue, but it was brought up there just as a simple burden reduction step that, to me, indicated that it was a redundancy or -- not maybe a redundancy, it was actually an element in the form that wasn't necessary and is actually contrary to corporate law, that there should be any connection between the two, the parent and the subsidiary if it is an independent subsidiary, and, therefore, I thought you could go ahead and get rid of that information.

And really you are looking -- for the purposes of TRI, looking at the locality and what the impact of that facility is, not what the corporate parent is. So, it was a burden reduction step and in light of what is written down here, I think it is an appropriate -- the way Susie explained it, it is appropriate in the way it was discussed in the committee.

I think that what Paul is bringing up is actually additional and new and different to what was really in the context it was discussed in.

MS. FERGUSON: One alternative could be to take that one sentence out of concern and pass it on to the Form R group

for inclusion as an idea that maybe didn't make their Form R changes in terms of consensus and then let that discussion stand as is.

MS. FEIL: Everybody okay with that?
Okay. Let's move on.

MS. FERGUSON: This issue is to develop a data management plan. It has four ideas -- excuse me -- five ideas associated with it.

MS. FEIL: Are there any comments on anything here?

Sam.
MR. CHAMBERLAIN: On the issue identification, the sentence that begins with "EPA has done an adequate job in identifying the political and policy purposes of TRI program," it is news to me that the TRI program is a political process and Congress intended it to be that way. So, I would recommend we take out the term "political."

MS. FEIL: Is that okay with everyone? Okay.

Any other comments on this one? I am going to try and get us through this paper before lunch.

MS. FERGUSON: What do we take out, Sam?

MR. CHAMBERLAIN: [Comment off microphone.]

[Multiple discussions.]
MS. DOA: My personal perspective is that parts of it are very political and involve people in this room.

MR. STONE: I guess there is a point in terms of this is a committee report, does the committee believe that sentence is accurate and true. Does it need to be there?
MS. FEIL: Is everybody okay with it taken out?
PARTICIPANT: Take it out.

MS. FEIL: Okay. Let's move on.

No. 3 -- more comments on No. 2.
MR. ORUM: I have one comment on No. 2, under the advocacy discussion. It says -- suggests that EPA should examine whether a de minimis concentration exemption can be developed for waste streams without significant data loss. This

seems to me to be a separate issue from developing a data management plan. This is a particular position that we thought -- that some people advocated, which I think, again, deserves its own separate advocacy.

MR. SKERNOLIS: Paul, let me respond to that.

I don't think I have a strong conceptual objection to what you are saying. I think this was more of a gesture of efficiency that within the context of evaluating how much data do you need, with what precision, et cetera, that within the context of a data management plan, this is the appropriate place for EPA -- I mean, that is what the discussion was at the meetings. Since I was the discusser, I suggested that within that context EPA can look at whether that is an appropriate burden reduction activity.

MR. ORUM: My memory of the discussion is, you know, I remember suggesting that with all the various exemptions that you whittle away at the core of TRI, that there were exemptions for chemical -- well, limitations on the scope of TRI being not SIC codes, you know, ten employees and so on and so forth and advocated that the effect of those limitations should be quantified by EPA in order to understand the scope of current reporting.

However, I don't think that that is really part of, you know, developing a data management plan for TRI unless you are going to take a bunch of the proactive benefits of doing so, such as understanding the major gap in reporting and ensuring that reporting occurs in those areas in the future. That is a much broader statement than we have here.

MS. FERGUSON: Before we go on, in terms of -- Paul, there was the specific issue of in the minutes discussion of aggregate error tied to a definition of de minimis is present and this idea reflects that idea from that discussion. You may have additional concerns about the use of such a definition in describing accuracy in terms of a data management plan that we should also capture in concerns, but we had a lot of discussion, including the item of 80/20 data, which is, I think, the Idea No. 3 doesn't spell out a level, but gets at that same issue of precision versus accuracy that would be in a data management plan. So, if there are additional concerns you have beyond the data management plan in terms of using those terms to define "accuracy," I think we could present them. But they were an element of the discussion and presented as an element of the precision/accuracy of aggregate

error in the original minutes.

MR. ORUM: I would not have any objection to replacing the terminology, de minimis concentration, with terminology describing accuracy issues because -- the degree of accuracy needed in reporting or however you put it there, creating another exemption is a separate issue. And a de minimis concentration in waste streams is to me another exemption.

So, no problem, just the degree of accuracy that we are talking about, put that language in.

MS. DOA: I have a question about this. Maybe you said this and I just didn't understand it. It seems that under "Develop a Data Management Plan for TRI," are you saying that we should develop regulations to provide a de minimis exemption for waste. The de minimis exemption does not apply to waste. So, is that what you are saying?

MS. FERGUSON: As I understood the ideas, in the discussion one element of a data management plan would define aggregated error and you would have standards as to how you would define aggregated error.

An example in the discussion that was given as one of the items that you could define in that process for aggregate error was the de minimis. What level of concentrations would you go down to in terms of your search for concentration materials to be reported back up in terms of or what your break off point is for error.

The other discussion involved the level of effort and accuracy on data collection and you might actually combine those in terms of ideas. So, it wasn't so much in the data management plan that you would find regulations, but your decision choices for accuracy, precision and aggregate error have consequences back in terms of the information provided to EPA.

MS. DOA: Then I would make a suggestion and that would be to change the language because de minimis is a very specific exemption and it doesn't apply to waste. So, you may want to say some cutoff or something. But I think it would be a little bit misleading to include a de minimis exemption when you are talking about waste like that.

Just use some low level or –

MR. SKERNOLIS: I was going to make an editorial suggestion to get us past this problem, which is to take out -- since the issue of raising the consideration of the waste stream exemption is already identified in the second idea -- that is where it is introduced -- that we take that last advocacy sentence out since it is duplicative and we add at least a concern that addressing de minimis exemptions may require regulatory changes.

The reason I am saying that is because I consider a data management plan an administrative, managerial product, not a regulation. And that we are rightly pointing out a concern that anything you would prefer us to do might require you to write regulations on it, but I think that is only a might at this stage, not a -- I mean the concern is maybe not definitely.

MS. DOA: I guess my point is just the way you have the second bullet point and I think the way I read it and others who deal with the program a lot will just think you are talking about the de minimis exemption and will say, well, it doesn't apply to waste and then -- so, that is all. If you want to leave it in, that is fine. It was just my suggestion on clarity.

MR. SKERNOLIS: Oh, okay.

But does anybody object to my proposal for getting past Paul's and Maria's problems?

MS. FERGUSON: I don't know that I understood what changes to make where.

MR. SKERNOLIS: What I am saying is clarify per Maria's direction what we mean by the idea of establishing a de minimis concentration level for waste streams in the aggregate area part of the data management plan. That is Idea No. 2. When you work Idea No. 2 to clarify it for Maria's concern.

MS. FERGUSON: Let me make an attempt and see if I can do that.

MR. SKERNOLIS: Certainly

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MS. FERGUSON: Specify aggregate error and define industry specific concentration limitations. Does that get the idea without using the word "exemptions"?

MR. SKERNOLIS: I am not sure what sort of -- I think, I mean, I am going to pass the buck and leave here exactly what kind of clarifications she wants and then make sure that people understand it to not be the mixture de minimis exemption but a new consideration of whether there are concentration levels in waste streams that EPA could consider de minimis.

MR. ORUM: Are you talking about guidance on the level of accuracy needed to report what? I mean, waste streams under TRI or that particular chemical in a larger waste stream, but it is not reported as a concentration. It is reported as the subtotal of that particular chemical and the larger waste stream is not reported.

MR. SKERNOLIS: As a practical matter, Paul, the way that would work in the field is as to what degree do people have to examine their waste through monitoring, analysis, et cetera, and it is how far the concentration will have to chase the molecule in order to come up with the mass. That is essentially what a data management plan would identify. It isn't -- and it could come out in a variety of ways, many of which we discussed at the last meeting.

MS. FEIL: [Comment off microphone.]

MR. SKERNOLIS: We were just trying to finish up how to fix this section.

MR. BROMLEY: I was going to suggest that the issue on the de minimis exemption for waste be included as an example and make it a more generic statement of saying that having a data management plan in place would assist addressing proposals for changes, such as establishing a de minimis concentration for waste streams and other proposals. I put that out for you guys and how that would -- would that address the issues in both what Paul is saying, that this is an example but it is not necessarily -- it is really addressing the data management issue as much as it is the waste concentration.

MR. ORUM: Well, again, putting examples in with concerns, more or less, then doesn't allow the concerns about the example to be well-expressed.

MR. SKERNOLIS: I agree with you, Paul. I don't think it is an -- I mean, it was raised as a specific issue in the data burden -- in the burden reduction discussion and it was discussed in the context of EPA proceeding to examine

whether this is feasible when it looks at data the management plan. That is what the record, I think, shows. That is my recollection of the discussion. So, I don't want to reduce it to the level of an example when it, in fact, was one of the 16 items we put on the board as something for EPA to address under burden reduction.

MS. FERGUSON: Let's see if I got the concept in a broad -- (d) I changed to read, "Specify aggregate error and define industry specific limitations. EPA should use the DQR to specify aggregate error and for developing industry specific limitations, such as for de minimis concentration for waste streams similar to..." Does that help?

MR. SKERNOLIS: [Comment off microphone.]

MS. DOA: I just thought that what you were saying and the way people would take it would be two different ways because I think you mean something that -- I just would stay away the word "de minimis." It is a term of art in the TRI program. It means something very specific, but it is a very specific exemption and it doesn't apply to what you want it to apply -- I mean, it doesn't apply to what you are trying to convey it should be for this data plan.

[Multiple discussions.]

MS. FERGUSON: Let me try one more time.

Specify aggregate error and define industry specific limitations. EPA should use the DQRs to specify aggregate error and to develop industry specific limitations, such as concentration levels or concentration cutoff levels for waste streams.

MS. FEIL: Okay, Wilma.

MS. SUBRA: Under the advocacy section, which is now merit, on the second page of the advocacy section, there are statements, EPA must, EPA should, EPA should, should, should, should. Those should be issues. Those aren't merits. Those are the recommendations that you are asking EPA to do.

MS. FEIL: Everybody okay with that?

MS. FERGUSON: I am going to have to ask her to repeat it. I am sorry. I can't type and listen too well.

MS. SUBRA: Okay. Under the advocacy section, which is now called merits, on the second page of the edition I

have, there are a number of things that say EPA must, EPA should, should, should, should, should. These are recommendations. These are not merits of what the ideas are. These are the ideas. So, these three should be moved up into the idea section.

MR. FEE: I second that.

MS. FEIL: Are most people okay with that?

MR. SKERNOLIS: I agree with Wilma but I think some of them simply need to be redrafted as the -- in other words, they are expressed in terminology of “should,” but they really are just a statement of what -- the merit of going forward. Some of them are ideas. So, it isn’t a question of changing everyone the same way. That is what I am getting at.

Some of them could be re-expressed as merits. Some could be rolled into the ideas.

MS. FERGUSON: Some, I think, also try to define more clearly data quality management plans, functions –

MR. SKERNOLIS: Some of that can be eliminated. I still -- are we still in agreement that we are going to eliminate -- just to finish up the thing we started earlier -- that we are going to eliminate the duplicative last advocacy statement per Paul and Maria’s request, where EPA should examine whether de minimis concentration exemption can be -- and we are going to add a concern that examination of cutoff levels may entail the development of new regulations.

Is that a fair statement? Establishment of cutoff levels may require new regulations.

MS. FEIL: Is everybody okay with this?

MR. COMAI: That relates to this issue -- Issue 2, the second bullet on page 2, which has been rewritten. Is there a way to sort of link that, I mean, make the language consistent, so that people know that the concern with that particular bullet –

MR. FEE: That has got the whole notion that we are lumping the merits and concerns based on the way they formatted it. It is the way it is.

MR. SKERNOLIS: [Comment off microphone.]

MS. FEIL: Joan, did you have a comment?

MS. FASSINGER: On the third recommendation, “Establish a level of effort and accuracy expected for data collection...,” the statement does not appear to be a complete sentence. So, it just needs to be completed.

[Multiple discussions.]

It says that EPA should develop guidance, which establishes a relationship between the level and then it doesn’t have an “and” whatever between the other half of the relation.

[Multiple discussions.]

MS. FEIL: Is there anything else on No. 2?

Okay. Let’s go to No. 3.

MR. CHAMBERLAIN: Under “Concern” -- and maybe Ed could probably help address this, but the last concern says it is the final case where it is into generators. You read that statement. It doesn’t really say what the concern is. I think the concern there is that if you added and could create a reporting burden period, it would help describe that concern because I think that is what the issue there is.

MR. FEE: Also, what is the idea, the solution, I mean, actually, the beginning part of the merits indicate solutions, but I want to be clear on what the idea is.

MR. BROMLEY: I guess also what is the issue -- the issue seems to be in the advocacy discussion more than anything else. It is the problem -- the issue right now says that what is required and then advocacy says, well, since the forms are not standard, that seems to be the issue really, not necessarily the advocacy.

MR. FEE: Yes, I agree with that.

MS. FERGUSON: I am lost. Sorry.

MR. FEE: We are trying to define what the issue is and the synonymous word for “issue” is “problem.” What is the problem with the current way it is? The problem is that the way it is presented now is not standard. The supplier identification procedure is not standard. So, that is the issue. And the idea is -- to address that issue is to standardize

and, hopefully, you have some more detail as to how to do that. Does that make sense?

MR. GARNER: I will take credit for writing this one and, you know, I think you are right. I think the issue identification is really just background information that can probably be eliminated and then the issue is the fact that things aren't standard and I think the other issue that was raised by the committee is that there is no comparable notification for waste products that then go to treatment facilities. So, I was trying to capture both of those things, the first being that if not standard where it is currently required and the second issue is that it is not required at all right now for waste products.

MS. FEIL: [Comment off microphone.]
Andy, do you have a comment?

MR. COMAI: Somewhere here it should mention that -- it seems like there is no identification of waste that is required and you do mention OSHA and the HAZCOM standard. If you send a worker into a bin of F006 waste with a shovel, you do have to notify what is in there and there is -- you can get the TCLP test or you can tell them what the concentration is, protective measures, no hazard communications. It says you have got to tell them what is there. So, this paints a more grim picture than I guess then it does. Also, EPA can require companies to label things, you know, if you mix your amines with your nitrates, well, you have got to put a label on that. So, there is this idea that suppliers are resistant to changing formats. EPA has made them do it before, I guess. So, I assume
that –

MS. FERGUSON: [Comment off microphone.]

MR. COMAI: It says under -- well, supplier notification is not currently required for waste materials. However, there are requirements for notification of certain constituents. I mean, you sort of -- it is all in the negative, that sentence, and then RCRA regulations, generating producers are not required to know TRI constituent concentration and -- there are instances where the generators of waste do have to know what is in there, I guess, and you have to notify somebody.

MR. SKERNOLIS: [Comment off microphone.]

MR. GARNER: I would say that they are not always requirement to note TRI constituents. Certainly, if somebody is working with it, it is an OSHA concern and they have to know. If they are not working with it, if they are just going off to a waste disposal facility, they don't have to know that there is x amount of TRI chemical in that material. So, again, just qualifying it by saying under RCRA regulations, generators are not always required to know, I think addresses your concern, Andy.

MS. FEIL: Jon.

MR. STONE: A couple of concerns. I am trying to think of an instance where a supplier actually wrote his own safety data sheet in format. Historically, we have used -- and I did get the number on it -- OSHA Form 20, which was actually a form that was built and designed by the ship builders and ship builders union. In the last three years, almost everyone has converted to the ANSI 400 standards, especially if they are going to ship anywhere in the world outside the United States.

Section 15 specifies SARA 313 reportables, CAS numbers and percentages and with few exceptions people have converted to that format and it is an available number. The only thing I have a concern of is in issue identification weight percent. We don't really report weight percent.

We usually report on maximum concentration that could be available because when we manufacture materials, it was usually a specification range and the SARA 313s can have a range, not an exact number.

MR. FEE: I heard earlier that the first two paragraphs under the advocacy discussion were really getting at the issue, which then -- well, both doesn't leave any merit, but also not any idea -- I am still trying to flesh out the idea or is it just a broad statement to say let's standardize –

MR. GARNER: I think that is the idea is that should it be standardized and if it were then somebody would know where to look to find it very quickly. I mean, that is the idea and the –

MR. FEE: And it says specifically to standardize

the MSDS format or some other procedure for supplier identification, some other vehicle.

MR. GARNER: To standardize the way it is done and that could either be a standardized MSDS or it could be standard in a letter that accompanied the MSDS. It could be standardized in an attachment to the MSDS that was specific to SARA 313.

MR. FEE: You are not specifying which one of those choices we should most pursue. There are like almost three you just mentioned there.

MR. GARNER: Right.

MR. FEE: And they are changing MSDS, attach something to the MSDS or a separate letter of notification.

MR. GARNER: Right. Exactly. It could be any number of those or ones that we haven't thought of because this wasn't discussed to a great extent.

MR. FEE: No, it was not, as I recall.

MR. GARNER: There were just a few references to it and as result, I don't think we can say a lot in the report, apart from bringing up the idea of standardizing the way it is displayed.

MS. DOA: I just want to ask a clarifying question about the MSDSs and maybe the way you want to -- I was thinking -- I don't know -- maybe other people know more that the other MSDSs are really -- that is OSHA. Isn't that a result of the information on the MSDS and how it is presented at a hazcom under OSHA and then we had relied on that. So, does anybody know -- or you could say that we should work with OSHA to have OSHA change the MSDS. I don't know. Maybe know a little bit more about –

MR. FEE: [Comment off microphone.]

MS. DOA: Maybe it is beyond what we can do. We can talk to OSHA and stuff and we could try to standardize where we can. It just might be as much as you think it should be. I guess maybe that is my point.

MR. FEE: If you leave the idea as is and only the

additional letters, one that you control yourself, maybe that is the most viable idea for EPA to pursue. Or you might decide that, well, discussions with OSHA is the most efficient way to handle it. I don't think we are suggesting which route to go.

MR. BROMLEY: Why don't you list that as a concern, saying that there are barriers because of MSDSs that are generated pursuant to OSHA?

MR. STONE: When they did convert to the format, the ANSI format, they added the regulatory section. SARA 313 is part of Section 15, as is Section 302, some of the extremely hazardous materials, they are in a section that you have those. Reportable quantities is in that section, which has never been before. The first thing when you read a -- you go to that Section 15 and you know automatically, but it also comes back to what is the minimum amount that you show and we go back to reportable quantities and see the .1 or 1 percent, depending on the hazard, that we will report on a safety data sheet, but it is there. It may be an OSHA form, but there is an awful lot of other EPA information now available on a safety data sheet.

MS. DOA: Oh, I wasn't trying to pass off not doing it. I was just -- I was just trying to bring up that there might be -- it has to do with the control that we have versus the control at OSHA. I am sorry. That is all I was trying to articulate.

MR. NATAN: Let me make a comment about the concentration ranges on the material safety data sheets. Every year when I take a look at New Jersey data, I see that the Coastal Eagle Point Whale Company has wild fluctuations in the amount shipped in products such that their inputs and outputs never balance. When I called to ask them about it, they say that they rely on the mid point of the concentration of their MSDSs to -- as the amount shipped in product for each particular product.

So, clearly, this is inadequate. Okay? And I just wanted to make that point as a concern, that the MSDS does not provide enough information and specificity, I think, to fulfill this supplier notification as written here.

MS. FEIL: [Comment off microphone.]

MR. STEIDEL: Isn't the issue then that the -- the information is not consistent and the information is not always available. So, I think there are good concerns and recommendations but I mean, the issue is this prior information is not specific, not available. I think our recommendation, what I am hearing, is that through whatever format, we want to express to EPA that we want that consistency and that information available.

MR. COMAI: I guess the idea that we could provide that -- ANSI is a standard, right? I mean, to say that it is not standardized is incorrect. It is an industry standard. The industry dupes got together and said this is what we think is the best format. OSHA doesn't fit in on those ANSI committee meetings, but they take those standards and can incorporate those. But to put that in advocacy discussions and say that there are standards out there for better MSDS sheets and to include that in this text because we have this issue that there is a burden, that you have to sort of look through these things.

There is also a burden for people -- you know, the thing is meant for workers to understand what they are being exposed to and there is a constant battle to try to get that information to workers. They can get the MSDS sheet, but 70 percent of the information is inaccurate on them and it is mostly because of the lack of standardization, but also it is that the companies want to sell chemicals and the least number of toxic chemicals you have got on there, the better the product looks.

So, the idea of -- I guess that final point is that there is no check. There is no -- you can send an MSDS to OSHA and they will check it, but there is no quality control after the fact, after the thing is written, unless you complain about it.

MR. CHAMBERLAIN: Under "Concerns," the second paragraph, some proposed wordsmithing, it says, the second sentence, "As a result, extending supply notification to waste generators may simply..." -- I don't know of anything that is done simply under this program, but I would propose you strike out "may simply" and just insert the word "will shift burden from the" and suggest you strike "hazardous waste industry," and to be consistent with the language above, insert "waste disposal" and "treatment facilities." And then pick it up to the "generators of hazardous waste."

MR. ORUM: Could that be listed as a merit?

MR. CHAMBERLAIN: Waste disposal and treatment facilities as it is used above in the discussion under advocacy, it is the last sentence under that discussion.

MR. ORUM: No, I mean, it is listed here as a concern. It could also be listed as a merit.

MR. CHAMBERLAIN: It is already described up above in the last sentence as a potential merit. It is not broken out in that context.

MR. GARNER: I just wanted to comment about Andy's statements and, yes, there is an ANSI standard on MSDSs, but it is not a standard in the sense that it is a requirement. It is a standard that ANSI came up with that people are free to use. Under OSHA, OSHA has come as a performance standard and as a result, OSHA hasn't specified a particular format be used for their MSDSs and that is why they all look different.

As someone who works for a chemical distributor, I think it would be great if OSHA were to standardize MSDSs and then they would all be alike. OSHA hasn't done that. So, we are faced with using MSDSs that are non-standard.

MS. FEIL: Are there any comments on No. 3? If not, we have about ten minutes before lunch. Do you want to start the other report?

[Multiple discussions.]

Agenda Item: Discuss Possible Other Parts of TDR Committee Report

MS. FASSINGER: I would like to add a concern and it regards Recommendation No. 4. Don't use guidance to expand scope of TRI reporting, I guess, mostly relates to that. And the concern is that change in guidance could be used inappropriately in lieu of the regulatory process, which follows administrative procedures.

MS. FEIL: [Comment off microphone.]

MS. FASSINGER: Changes, and you can rephrase this. The concept is -- the concern is that we don't want guidance, changes in guidance to be used in lieu of the regulatory process, which follows the Administrative Procedures Act, in lieu

of full rulemaking. So, it is phrased -- I just had it phrased, “Changes in guidances could be used inappropriately in lieu of the regulatory process, which is required to follow administrative procedures.”

MR. FEE: I was wondering what the issue is here. I am unclear as to the issue.

Does anyone from the Burden Reduction group –

MR. SKERNOLIS: In the burden reduction discussions, we talked about the current guidance packages as to whether or not they themselves could be improved to reduce burdens. And these are simply the points that were raised in the context of the discussion. I mean, the issue is if the guidance packages are not doing enough, they should be improved. Yes, the current guidance packages are not doing enough and could be improved to reduce burden. Then I think these are the four ideas that were culled out of the minutes from that discussion.

MS. FERGUSON: How about improvements to in the front of that would provide a mechanism?

MR. SKERNOLIS: Actually, the very first part of the advocacy discussions said that very concisely, maybe overly concisely. I think just the first part of -- the first two sentences of the advocacy discussion can be moved up to issue identification.

MR. FEE: You could do that, although they are just those technical guidance documents. It is the Form R instruction that is something kind of separate. You might to also mention that because there is the Form R instruction booklet and then there are these various guidance documents and I think it is valid that you put both of them, mention both of them.

MR. SKERNOLIS: Right. So, the first, the advocacy -- the first two sentences of the advocacy discussion would begin. The technical guidance discussion documents and Form R instructions are invaluable, et cetera, and these documents can be improved with efficient data collection. That becomes -- those two sentences just roll up to the idea.

MS. FERGUSON: Okay. Let me -- now the issue identification now reads, “The technical guidance documents are a valuable contribution to assisted the regulated community in

their reporting obligations. The documents can be improved –

MR. SKERNOLIS: To ensure --

MS. FERGUSON: To ensure –

MR. SKERNOLIS: The only thing I am suggesting to change is the technical guidance and Form R construction documents.

MS. FERGUSON: Okay. I have got now in front of -- and that sentence now reads, specifically improvements to EPA Form R's instructions and technical guidance documents for industry sectors would improve -- would provide a mechanism for reducing burdens on the regulated community.

MR. BROMLEY: Can I have an alteration on that? Suggest that it read, "The technical guidance documents contribute to assisting," and just leave it at that. Take out "are a valuable." This will go on to my next comment.

MS. FERGUSON: [Comment off microphone.]

MR. BROMLEY: And just put "contribute to."

MS. FERGUSON: Okay.

MR. BROMLEY: This related to my next comment basically. One of the things that I raised during the committee that I don't see reflected in here and I guess as a -- it would be part of the advocacy or the merits -- is that the reason for improvement, to me, what I have heard from many of my clients in the facilities that I work at is that there are so many, the sheer volume of guidance documents. You have got Q&As. You have got different guidance documents. You have got all the preambles that all have to be melded in and read over and pored over before they can figure out what the heck they are supposed to do and that needs to be improved as well. It needs to be made much more concise, much more understandable.

It is just impossible for the operators out there to be able to read all that material and understand it. And right now, it is just too voluminous. I guess, I am trying to think of the best way to phrase that. I can't remember what was said during the committee and if we did phrase it down, I remember suggesting that and putting that on the board, but it

was something about reduce the complexity of existing guidance, the complexity and volume of existing guidance.

MS. FASSINGER: And would that be a recommendation or -- it doesn't sound like advocacy.

MR. BROMLEY: And advocacy is –

MS. FASSINGER: -- recommendation or concern.

MR. BROMLEY: And I am not sure what it was, how we would put it in there. It was during the committee and I –

MR. SKERNOLIS: I will take a shot at how to word it if this is acceptable to you.

The merits of the proposal would be to reduce the current need to use a variety of reference sources in order to properly complete the Form R. So, by improving the technical guidance in the Form R, implicit in that is that we don't have to go to a whole wide variety of reference sources to complete the Form R, but it is more concise, user friendly.

MS. FERGUSON: If you see this sentence that begins both the Form R and technical guidance can be used to identify areas of common reporting requirements among environmental groups, also reduction -- and also reduction in the total number of guidances facing business.

MR. SKERNOLIS: [Comment off microphone.]

MS. FERGUSON: Give me a sentence.

MR. SKERNOLIS: [Comment off microphone.]

MS. FERGUSON: Improve technical guidance would reduce the need to reference a large number of documents currently needed to complete the form.

MR. STEIDEL: Under the idea of the guidance, they need to be better tailored to industry groups, I think we had the concept there under that idea, that the industry sectors could contribute to developing that guidance to help make that clear, too. That seems to be lost here. I don't know if you would want to take it out or whether it is just an oversight. But I do remember that discussion.

MR. NATAN: That was going to be my point as well. I mean, I think the paper industry, the pulp and paper industry has provided a model in some ways for taking lots of complex and divergent guidance documents and producing more clear substantive guidance that facilities can use.

I think interaction -- I mean, it should not be up to EPA alone as implied in this.

MR. SKERNOLIS: [Comment off microphone.]

MR. FEE: I have a question as to Idea No. 4, Recommendation No. 4, don't use guidance to expand scope of TRI reporting. I was wondering if someone from the group could give me some idea on that. First of all, I don't know what it means and, second of all, maybe because I don't know what it means, I don't remember that being part of the discussion.

MR. BROMLEY: That is exactly what Joan just raised the issue on is that it is not going through a rulemaking, but making changes to exemptions or requirements or interpretations in the guidance documents, in the Q&A, in the something else, that doesn't go through regulatory process.

MS. FERGUSON: David, this was the comment that we didn't recognize and we sent around to the other subcommittees asking for issues on use and that could be exemptions. And Corey had presented a paper to the group as a whole on this issue and there were two aspects to his concern, one that the process being used for these exemptions was guidance. And it was changing other guidance that was in existence. It said people could have these exemptions. So, that was a concern.

He had another concern that the fact that he thought rather than diminish these use and activity exemptions, they should be expanded. So, we picked up that thought later on in the paper, but the process related concern to his issue, we picked up here in terms of that guidance is not your most appropriate place to expand your reporting the universe.

You need to go through the administrative rulemaking process on that was how that –

MS. FASSINGER: Maybe we need to just rephrase it slightly and say don't use guidance to expand scope or modify -- make major regulatory interpretation modifications.

MR. FEE: That is what I hear you saying. Expanding –

[Multiple discussions.]

MS. FASSINGER: Maybe we should modify that if everyone agrees.

MR. ORUM: That would be very helpful because as it currently stands, as currently described, you are saying don't use guidance to reinterpret things that are in guidance, which doesn't make any sense.

MR. BROMLEY: If you have previous guidance and then you have new guidance that reinterprets the previous guidance, that is exactly what it means.

MR. ORUM: I guess I would just say that that seems really ridiculous to me. I mean, guidance can be reinterpreted by the process that created the original guidance. That is exactly what guidance is.

I would certainly not agree that no changes should be made to guidance that results in something more being reported than is reported now. I think that the suggestion to not use guidance to go into areas that went through, you know, regulations would be appropriate, although hardly necessary. But I just don't see how you could argue, you know, don't use guidance in reinterpreting guidance. It is the same process.

MR. FEE: When you are talking about guidance, are you talking about interpretive guidance, like the Q&A document? Is that the kind of specificity you are thinking here?

MS. FERGUSON: The example given in the paper that Corey provided had to do with the way chemicals were used or a particular activity where EPA may have interpreted the rule early on to say these kinds of facilities don't have to report TRI and they are now saying these kinds of facilities do have to report under the same rule without going to a rulemaking process on that.

I think that getting at the regulatory scope of who needs to report and who doesn't, that those kinds of decisions need to be through an APA regulatory process is the gist of what I understood the recommendation to be.

MR. BROMLEY: There may be some -- it wasn't who

needs to report. It was what activities need to be reported, not the scope of who is under TRI or not, but once you are there.

MR. FEE: And that was explained in the Q&A or one of those directives, some of those directives?

MR. BROMLEY: All of the above. You could find it in directive letters. You could find it in Q&A. You could find it in the preambles. You could find -- I mean, you name it, those inconsistencies between those that would come out and so, there are all of those things. That goes back to the other issue, is there are so many reference documents that it is inevitable that you are going to have that type of inconsistency.

MS. FEIL: Any other comments?

MS. FERGUSON: I do want to know how people want to word it.

MS. FASSINGER: Well, I think the original statement that we had, as modified, was don’t use guidance to expand scope or make changes in regulatory interpretation in TRI, which should require rulemaking.

MS. FERGUSON: Don’t use guidance to expand scope or make changes in regulatory interpretations of TRI, which should require rulemaking. Should we put a parentheses in “of TRI” or a new sentence period, these should require rulemaking?

MS. FASSINGER: Well, I think the concept was don’t use guidance in lieu of rulemaking.

MR. ORUM: That is much better. I don’t like the term “to expand scope” because you could have some change in guidance on the automobile exemption, the automotive or personal use exemptions or that would be necessary -- who knows what it would be. It might expand reporting. I think that the other statement of to do things that should be part of the regulatory process -- so, again, it hardly seems necessary. It is the principal idea you are trying to express.

MS. FASSINGER: The idea is that –

MS. FERGUSON: I have got a rewritten bullet that I

think reflects what I have heard around the table. Don't use guidance in lieu of rulemaking to make changes in regulatory interpretations of TRI reporting.

MS. FEIL: Is everybody okay with that?

MS. FERGUSON: Is that understood? Do you want me to read it again? Don't use guidance in lieu of rulemaking to make changes in regulatory interpretations of TRI reporting.

MS. FEIL: If everybody is okay with that and we are done with this number, I think before we break for lunch, David has a question or announcement.

MR. FEE: I was asked to find the next meeting date before lunch because there are a few people that are going to be leaving after lunch. The original thought was I mean, the task at hand is still the task at hand and try to keep going as soon as we can. Is it possible we can meet one month from now? They think it is a little tight that they could do that if we could commit to that and if we want that, as opposed to waiting like a month and a half or two months, which has been the sort of time frame between our meetings. Let's just get this done and out of the way.

Jon, that would be enough time for your group to work up your work into the issues, ideas format? Any thoughts on that for meeting at the end of September?

MR. ORUM: Do you have specific dates in mind?

MR. FEE: No, I don't yet, but I was just trying to get the idea of the concept of meeting at the end of September and if we are okay with that, then we will start looking at dates.

MS. DOA: When David I talked about this, we had talked about this meeting that would happen pretty soon to focus just on finishing up this material, these papers. And actually in terms of dates, maybe October 1st, because we will be in the new fiscal year and it might be easier for us for travel money that we pay for.

MR. FEE: Also, if we are going to consider just doing this work, do we want a two-day meeting or do we want to consider a one-day meeting?

MR. STONE: I think two days. You might as well plan it for two days.

MR. CHAMBERLAIN: [Comment off microphone.]

MS. DOA: I think part of this is we are going to take it back it to our management and discuss it with them and then we want to come back to you.

MR. CHAMBERLAIN: [Comment off microphone.]

MR. SKERNOLIS: It seems to me we are going to finish our burden reduction early in the afternoon. The last three issues in here are, I think, I am going to guess, are not going to have anywhere the complexity of the first four issues or five issues we discussed this morning.

[Multiple discussions.]

I don't think Form A is going to be as complicated as some people think.

MR. FEE: So, what do you suggest –

MR. SKERNOLIS: All I am saying is that for purposes of the next meeting, it seems to me we only need to dedicate a half a day in finishing up Form R and then we have -- then we have to fill up the agenda.

MR. FEE: Right. That is what I asking. What do people think in terms of how much time –

MR. SKERNOLIS: I agree with Jon. If we are going to have people fly in and commit to getting here, I think they are going to feel, because it is using up one of their visits and if we are going to have them here, let's use the two days. We have to have the whole days, at least, sketched out. We shouldn't just say, well, let's finish up and --

MR. FEE: Okay. Well, some people believe that maybe we are going to need more than half a day to do the work that we need to do. That is one thing. Certainly, we could tack on these -- start up these new issues if we got everything done. I mean, besides finishing the work on the Form R, we would have to finish burden reduction if we don't finish that. Sometime we have to also do the necessary task of the rest of the packaging of the report. You just can't put these three -- well, some people believe that is all we should do.

MR. SKERNOLIS: All I am saying is I don't -- I think it is reasonable to plan that we would finish Form F in about a half a day.

MR. FEE: Okay.

MR. SKERNOLIS: On the next meeting and that we would be done with the subcommittee reports and then the rest of the meeting would be filled up with –

[Multiple discussions.]

MR. FEE: Well, maybe then the second half of that first day would be to do whatever other work needs to be done on the report. I would suggest, as I have suggested in the agenda, that we form some type of executive or editorial committee that can do some writing of the language of the other pieces of the report. Because if we don't have that, are we going to in a group of 24, write that kind of boilerplate language? I think we should form this editorial group, write that or even just one or two persons, you know, kind of work to write that stuff and then in the afternoon of the first day, people just provide some comments as to the language that we have incorporated in that.

MR. SKERNOLIS: [Comment off microphone.]

MR. FEE: We should know that. You are right. We should know it.

MR. SKERNOLIS: As long as we are taking the second day, we might want to have ready other things to work on for the second day and not just assume that we are going to take two days to do Form R. That is all I was getting at.

MR. FEE: What do other people think?

MR. CHAMBERLAIN: I think conceptually speaking there has got to be some interim action item to take place to facilitate a full two day meeting. I think that practically speaking, the way the discussion is going so far, it is going to take one day for Form R. I agree that in the interim, we have got to have some work on the rest of the report, the introduction section and some of the things that Susie pointed out this morning.

Thirdly, some sort of feedback from EPA on the future of this group based on the exercise we conducted this

morning and what sort of proposal they might have to us to continue the effort. So, whatever happened in the interim and preferably have some work product for us to look at before the next meeting. So we can be thinking about it and prepared for it.

MR. STONE: As co-chair of the Form R committee, I have intentions of having a rewrite to our subcommittee by the middle of next week. I would anticipate that the subcommittee would have reports back with corrections, additions, whatever that we could have a product to EPA by the 18th of September, which would give two weeks after dissemination for everyone to review it prior to the meeting, rather than walk in cold as we have been doing.

Since that should be the only one of the four major issues left to discuss, I would feel that a half day should be sufficient to cover Form R because if there are some major problems, you could either bring it to EPA or you could bring it back to the subcommittee prior to the meeting.

MR. ORUM: Jon, this is Paul Orum. That schedule would be a little bit tight for me. If it could all be extended by a week, that would be very helpful. I would also not want to underestimate, based on what I have heard the last couple of days, the length of time the discussions on Form R could take, although I don’t say that eagerly.

MS. FERGUSON: I just wanted to point out that we have left unresolved what process we wish to follow. If we get into new meetings, that is another topic of discussion, too. We have got the Form R paper, the Form A paper, to finish on burden reduction formatting. We might be able to use the interim to exchange -- if we get the draft out in the next week or two, the revisions, we could actually send them to the full committee and get comment back to speed up the review. That may be helpful, too, in the interim, if people are willing to do that. That would be a suggestion on my part to move that forward. But there are quite a few issues to be dealt with.

MR. FEE: And, thus, you feel what would be a reasonable time?

MS. FERGUSON: We can do whatever we set our minds to if we have a focused effort that is not interrupted. So, I think we could work it through at the next meeting if we did

our homework up front, exchanged views and got down to it and didn't start with another extraneous topic that diverted us from the task.

MR. CHAMBERLAIN: You know, if we can do it in a day, it would be wonderful. I would submit we ought to schedule two days and I would love to finish up late one afternoon and get an early plane home. But I would a lot rather allocate two days and really get into it than to schedule one day and find out we are not finished and we have to come back. That is my thought.

MR. FEE: How many believe that we would get or could get to new issues? And to take Susie's point, we haven't even -- first of all, haven't defined exactly -- you know, despite the fact that we have done this -- we haven't defined what issues are going to be discussed and we haven't defined the process. There have been a number of people who have indicated that they don't want to commit to discussing the new issues until they know the issues and the narrative process. So, we need to know that? Do we need to know that before we leave today?

Do we need to know that in the next week or so and then make a decision as to when we come back? These are sort of the questions. I don't have answers. So, I need some –

MR. SKERNOLIS: Listening to all of this, I would propose that we schedule two days and we have two big chunks. One is we finish the report. The second is we talk about specifically what we can do and how we are going to do it and then vote on whether or not to continue. That might take a half a day or something like that.

We visit that and then schedule -- I mean, my view is if we decide to stay on as a committee for another couple of meetings and we say we are going to tackle three or four or five more issues, then we take that time to specifically plan the first meeting that is going to address the new issues and that the committee do that planning as to how and what we are going to do at that next meeting.

MS. FERGUSON: And what the work product would be from that.

MR. FEE: So, do we have -- well, go ahead, Ken. You might have a -- I was going to say maybe do we have agree-

ment that that would be the -- Ed’s vision for what the next meeting would be and how that impacts the future of the TRI committee is the best way to go as opposed to trying to plow into some new issue because we have got this extra time?

PARTICIPANT: Absolutely.

MR. FEE: So, I think we are getting agreement here that we are not looking at any new issue for the next meeting. We would like a full two day meeting to work on the TRI report and then, hopefully, we have time to even get into the idea of laying the groundwork for how we proceed.

Is that okay with EPA?

MS. NEWMAN: The only question I have is were you thinking that we would get back to the committee before that meeting about, you know, our discussions, management on the future or --

MR. FEE: Discussions of which topic issues?

MS. NEWMAN: Yes. Which topic.

MR. FEE: I think it would be nice if you could take this under advisement and get back to the committee a couple of weeks before we meet as opposed to right then at the meeting. I mean, we can further discuss it at the meeting when we as a group discuss it, but if you could get back to us between meetings, it would be helpful.

MS. DOA: We would shoot for getting back to you between the meetings, but I think it would maybe be a week before the meeting because if the meeting is about a month away and just with people finishing up vacations, I just think the time line is a little tight for us to get on the calendar for Lynn Goldman. But we will try to get it as soon as –

[Multiple discussions.]

MR. STONE: Hearing what Maria said a few moments ago, I propose that we set the meeting for October 1, 2, which is a Thursday, Friday.

MR. FEE: Anyone else have -- are you still on the line, Paul?

MR. ORUM: Yes.

MR. FEE: 1, 2 is not good for you?

MR. ORUM: No, it is fine.

MR. FEE: Oh, October 1 and 2 is good for you?

MR. ORUM: Yes. We are simply talking about the process of rewriting the Form R -- a few more days on that.

MR. FEE: Okay. Are those -- we have two people who cannot be here October 2nd.

MS. FASSINGER: I would like to propose September 24th and 25th.

[Multiple discussions.]

MR. FEE: I am concerned about moving to less than a month.

MS. NEWMAN: I think we are going to have to use the new fiscal year money.

MR. FEE: For several reasons, let's consider October 1st forward in October, not September.

Wilma and Bob Steidel out for October 2nd.

MS. FERGUSON: I have a strong personal preference to be not here on the 2nd.

[Multiple discussions.]

MS. FASSINGER: How about the -- does the 12th, 13th, 15th or 16th work?

MR. FEE: The 12th is the Columbus Day holiday.

MS. FERGUSON: Yesterday was LBJ's birthday and I was here.

[Laughter.]

MS. DOA: Amy and I are in another all-day meeting on the 13th. So, we can't do that.

MR. FEE: Joan jumped over the week of the 5th. I would like to first try to see something in the week of the 5th before we go to the week after that.

[Multiple discussions.]

Do people generally have problems about Mondays?

So, should I not propose Monday? Okay. So, not consider Monday. The first consideration would be 6, 7, Tuesday, Wednesday.

MS. DOA: Vicky can't do the 7th or the 8th.

PARTICIPANT: I can't do it the 6th or 7th.

MR. FEE: Okay. So, 6th, 7th is definitely -- at least three people, which is worse than October 1st, 2nd. So, we have at least one person -- 8th, 9th, the end of that week? Wilma couldn't do the 9th. Andy can't either, can't do the 9th. So, actually that week is worse than October 1st and 2nd at this point.

MS. SUBRA: [Comment off microphone.]

[Multiple discussions.]

MR. FEE: Okay. 15th, 16th.

MR. GEISER: I can't make that all week.

MR. FEE: There is one person out on both days, 15th and 16th. Anyone else? You say not good for you. You will not be able to –

PARTICIPANT: [Comment off microphone.]

[Multiple discussions.]

MR. FEE: 14th and 15th. Mike is out the whole week.

[Multiple discussions.]

MR. SKERNOLIS: [Comment off microphone.]

MR. STONE: [Comment off microphone.]

[Multiple discussions.]

MR. FEE: 14th to do the report. That is when they won't be here, which is probably the better of the two days that not to be here. And then the 15th, we are going to start talking about, yes, we definitely need them. It is the whole process of continuing on and we need feedback from them.

MS. FEIL: [Comment off microphone.]

MR. FEE: On the 15th.

MS. FEIL: [Comment off microphone.]

MS. FASSINGER: What days are most people available then, going back to the 1st, between those three weeks?

[Multiple discussions.]

MR. FEE: One consideration about pushing it back that far, is it possible that with all that time and in our own offices that we do all this work via e-mails in terms of drafts and comments to the drafts? Assuming that in Jon's rework of Form R into that new format, into the PDR group's format, that doesn't raise like real major concerns. But I mean it just gives us a lot more time for back and forth dialogue, that we may eventually get to where we want to be anyway. And it is harder in some instances.

MR. SKERNOLIS: I think what we can do is Jon gets the document out to us and that is our first shot at it and it is our obligation to get back to Jon with additions, deletions or concerns and then Jon decides what is controversial and says I didn't want to make this change because I thought the whole committee needed to look at this.

MR. FEE: And he may need to -- say you come up with another issue, like you had done with 6, he adds it and that is fine, but then we all have to look at that and say, yes, okay, that is a legitimate issue and characterized properly.

MR. SKERNOLIS: [Comment off microphone.]

MR. STONE: There could well be two rewrites before that meeting.

MR. FEE: So then what I am saying is if we end up doing this, finally get to this meeting on the 21st, 22nd, could then we be really in the situation as Ed described of not needing to do a whole lot of discussion?

PARTICIPANT: Only needing one day versus two? Is that what you are saying?

MR. SKERNOLIS: No. Maybe only having to spend a half a day rather than three-quarters of a day. And we have still got the rest of the report –

MR. FEE: If we are having such difficulty establishing a meeting, do we want to try to do the work via e-mail or via exchange for the e-mail fax and not set a date or -- I

don’t know. Set a –

MS. PRICE: I don’t want to have to do it by e-mail because –

MR. FEE: So, let’s go to the -- what happens if we get done and we have this date, what would we do, just come here and just have like a picnic or something?

Okay. So be it. It is lunch time. Let’s go to the week of October 19th. Again, I will start with Tuesday, the 21st. Any problems there?

So, two people for 20th, one person for the 21st.
[Multiple discussions.]

Let’s just take one at a time. Let’s do 21, 22. Andy can’t make 21.

MR. COMAI: I could make a half day on the 21st.

MR. FEE: And make the 22nd?

MR. COMAI: Yes.

MR. FEE: So, a half day of one person. Anyone else? 21st, 22nd.

[Multiple discussions.]
PARTICIPANT: What about the 22nd, 23rd?
MR. FEE: 21st, 22nd, we only have a half day for one -- half a day. So, that is pretty good. Are we going to do better than that? Okay. The 21st, Wednesday, 21st, Thursday, 22nd is the scheduled meeting that we are not going to need because we are going to get it all done anyway.

MS. FEIL: Do you guys want to take a lunch break?

MR. FEE: No, let’s just continue on with Form A.
It is 12:35. I would say 1:30, 55 minutes.
[Whereupon, at 12:35 p.m., the meeting was recessed, to reconvene at 1:40 p.m., the same afternoon, Friday, August 28, 1998.]

A F T E R N O O N S E S S I O N [1:40 p.m.]

MR. FEE: Okay, Susie. We are going to start the meeting again. Susie --

MS. FEIL: Okay. No. 5, are there any comments?

MS. SUBRA: There is no recommendation.

MS. FERGUSON: [Comment off microphone.]
Sorry about that. Any other comments?

MR. FEE: Does the issue statement sort of state an issue or is it just background information, sort of like the last one?

MS. FERGUSON: It is more of a background, but we could add to it. EPA could take advantage of these reporting requirements to suggest some reporting reforms for burden reduction or reduced burden or some sentence to that effect.

MR. FEE: That seems like it would be suffice.

MS. FEIL: Any other comments on No. 5?

MR. SKERNOLIS: The first sentence under the "Concerns," is that going to be edited somehow?

MS. FERGUSON: What did you have in mind?

MR. SKERNOLIS: I wasn't quite sure what the brackets around the word "reporting?" meant.

MS. FEIL: Mike and Paul, we are on No. 5, in case you didn't catch that.

MS. FERGUSON: I am sorry. I was looking at the one above.

Yes. For some reason, I had a question from the minutes that I wanted to ask the group. Oh, the concerns raised was EPA should stay within statutory requirements. I assume that the comment on this could be Paul's? I don't know if this one of your comments -- meant statutory reporting requirement for TRI now, but I wasn't sure that I captured -- I wasn't sure what the comment in the minutes had in mind by their statement without the reporting, the report, with my addition, thinking that is where they were coming from, but I wanted to verify with whomever.

MR. FEE: Is the concern that you are concerned that EPA will go outside the statutory requirements to do reporting reform?

MS. FERGUSON: When we discussed this suggestion during the full group, a concern was raised by one of the meeting participants when we said EPA could point to opportunities to reform the law as part of this provision. Some one of us said we should stay within statutory requirements. I put the bracket "reporting," because I think that is what the intent of the speaker or this statement was, but I wasn't sure. So, I put a question mark there to verify it.

We could take out the reporting, but then how do you recommend changing the law and staying within the law becomes a little more confusing. Or we could drop the concern entirely if it is not still a concern, you know, in terms of the full committee.

MR. ORUM: This is Paul.

I don't recognize this concern as mine and urge you to drop it.

MS. FERGUSON: Does that work with the group, just dropping the concern if we don't understand it? The first sentence, which says, "EPA should stay within..." -- the only concern now is EPA should not confine itself –

MS. FEIL: Any other comments on No. 5?

MR. ORUM: Yes. I have a comment. In the advocacy discussion, in addition, errors, such as double or triple counting may occur from these similar but not identical reporting requirements. My understanding, people who have looked closely have not generally found double or triple counting, other than state facility identification information, but there is a lot of similar but -- just for the sake of not perpetuating -- I would prefer that we just use the language that they are similar but not identical reporting requirements, which may be duplicative rather than talk about double and triple counting, which I think is a big exaggerated.

MS. FASSINGER: I would like to respond to that. That is one of my issues and that relates not only to TRI, but looking at waste and emissions in total. So that include

double or triple counting waste as you are looking at, you know, total national impacts between looking at air emissions that are reported, looking at TRI data and looking at RCRA data that is a lot of redundancy and, therefore, you can't necessarily total all of those.

I think that the statement in context here is representative of that issue.

MR. ORUM: Yes, they are similar but not identical, I think, and, therefore, maybe duplicative. I don't think they are generally, in fact, double or triple counting per se if you really look at what is covered for air emissions, RCRA, TRI.

MS. FASSINGER: Well, I guess, a for instance is going back and staying in context with our previous discussions on the RCRA that proposed combined RCRA, TRI forms. There was a section for stating how much of that waste stream, RCRA, biannual reported waste stream, how much of that was certain TRI constituents. I think that provides a good example of where there is currently multiple counting in the system because you are counting the TRI chemical under TRI and you are also counting the TRI chemicals under the biennial totals.

MR. ORUM: That is a good example.

MS. FEIL: Are there any -- Joan, do you have another comment? Is your card up?

MS. FASSINGER: [Comment off microphone.]

MS. FEIL: Okay. Are we okay with that? Susie, do you know how –

MS. FERGUSON: The issue raised is out of the minutes in terms of the one of the issues raised at the time it did originate, I think, with Joan in terms of air emission items. So, I hate to -- you know, if what we are trying to do is capture the concerns expressed by stakeholders, Paul, I would say this sentence reflects the concern Joan has said a couple of times. Now, if we don't agree with it, can we add something into concerns that reflects your concern about that merit, I think would be fair, but I don't know that it is fair to change her concern or her merit.

MR. ORUM: No, I would not add anything to the merit or take anything away from it or add any or take anything away

from the concerns. I was just suggesting more accurate languages. If it doesn't strike others as more accurate, then let's just move on.

MS. FEIL: Okay. No. 6.

Bob.

MR. GARNER: Just going back to this one, I wonder if we just delete "errors such as" would help because it is not really an error that is being counted more than once. I think that probably still satisfies Joan and may make Paul happy, too.

MS. FEIL: Is that better, Paul?

MR. ORUM: A little.

[Multiple discussions.]

MS. FEIL: No. 6 -- oh, Ed.

MR. SKERNOLIS: [Comment off microphone.]

MR. ORUM: I just think it is misleading to the reader who doesn't know these issues when you say double counting because things are similar but not identical and, therefore, duplicative. That is my suggestion. I will let the editors of this particular report, you know, decide or the rest of decide.

MS. FEIL: Let's move on to No. 6.

Tom.

MR. NATAN: [Comment off microphone.]

MR. ORUM: Can you use the mike, please?

MR. NATAN: I think that that would be a problem, imposing a time limit before which revisions could not be made also. If EPA is going to continue to use various years as baseline years for national tables, then facilities ought to be able to revise the data that occur in those years. If 1988 is going to be the release baseline, then facilities should be able to continue to revise their 1988 data.

MS. FERGUSON: Would you add then -- there are pros and cons in the merits and the concerns section that kind of reflect both of those. Is there a sentence you would add to them? Because I think that the idea did receive both -- some of us liked it but we hated new circumstances. So –

MR. NATAN: Okay. Well, I -- okay, the concern is that the baseline years should always -- need to be open for revision. Another concern would be –

MS. FERGUSON: So, just that, baseline –

MR. NATAN: Baseline years need to be open for revision and also new guidance, new guidance, new reporting guidance may necessitate additional revisions beyond the window suggested.

MS. FEIL: Any other comments?

MR. CHAMBERLAIN: On the other concern, it is sort of the same reason that -- well, a different reason, but the same general output is that I think reports should have the right to be corrected for errors because reporters often face potential enforcement actions for uncorrected errors in their reporting and they should have the ability to correct those errors.

MS. FERGUSON: I think that is what Ken was trying to accomplish with that first sentence. This opportunity becomes a burden for filers. Again, the opportunity is the freezing of the data becomes a burden for filers when they persist in seeking to correct previously filed data and a burden for the agency where the -- should we say -- change that -- how would I change that sentence, Sam? Or should I change it.

MR. CHAMBERLAIN: I was thinking about just adding a sentence to the end of that.

MS. FERGUSON: Okay.

MR. CHAMBERLAIN: The concern is that enforcement actions against reporters could be taken for uncorrected errors if the data is frozen.

MS. FERGUSON: How about filers need to correct errors they find to avoid enforcement action?

MR. CHAMBERLAIN: That is fine.

MS. FASSINGER: Doesn’t it get somewhat in your concern, though, to a policy issue that it is not only the burden

on the filers but it could be a policy issue for EPA to provide to their inspectors to only go back to a certain cutoff date as far as corrections, which is a little bit different context than just the filer having to scramble to get the data together.

MR. STONE: Just a quick comment. It seems like at one of our previous meetings, almost maybe exclusively the enforcement actions have been failure to file, not errors in filing. I am wondering from the EPA, what percentage or how many 1990, 1991, TRI documents do you get resubmitted with corrections. It seems like it is really not a major issue.

MS. DOA: I don't know how many 1991 is. We actually for reports submitted for the year in which they are submitted, we get a lot of revisions within six months for that. Tom might know the number way back, but could I add something to follow up to Joan.

If we were to freeze the 1988 data, we would essentially coordinate with the inspectors and all the enforcement people on that sort of action. We just wouldn't freeze it at the program and not coordinate with everybody else. So, I don't think there would be an enforcement issue associated with that, just as a point of clarity.

MR. SKERNOLIS: This occurred since we discussed this, so it is not part of the record of our deliberations but since the EPA regional offices are now using this information as evidence for violations in other programs and, therefore, you have to look at whether EPA could use the 1994 baseline data in Region 7, as they have done and went back and said our records show going back to 1992, you have been -- we suspect you haven't been reporting EPCRA RQs based on your TRI reports. You see what I am saying? It is not just enforcement of the TRI program. It is the use of TRI data to enforce other programs that –

MS. FASSINGER: We could broaden Sam's issue to include those, I think.

MR. SKERNOLIS: That is why I like Sam's language because it is not -- I think it can be construed to read beyond just TRI enforcement, but EPCRA and other kinds of enforcement.

MR. NATAN: Just to address John's question, when I

was doing 33/50 program analyses, we were asked to look at reductions between 1988 and 1992 for participating companies and we submitted or we sent verification forms out to the -- there were about 1,100 participating companies at that time and we found that about a third of them sent us notices that their 1988 data were incorrect. Of those, about a third were not substantive, but two-thirds of the one-third were actually substantive changes to their 1988 data that affected their companies 33/50 baseline. That was just 17 chemicals. So, it can be significant.

MS. PRICE: I was just going to add to that, it is a similar experience to Tom's, but in the sector chapters that we are doing for the data release, just in the first five we have already done and the other 15 that we are working, obviously, we are calling facilities, top facilities for increases and decreases and release for production waste and that kind of thing. So, the 1988 -- if we are just looking at, say, the top three increases in releases since 1988 or decreases in releases from 1988 in almost every sector, there is at least one facility that finds an error and I don't know if that is because we are calling them or what, but there are a lot of -- you know, that is how we are discovering things like this chemical company that is in, you know, the wrong SIC code or this paper company that is in the apparel SIC code. That is how we are discovering these things is by looking at the sector data and some of these stuff, the changes to the 1988 data, that Tom mentioned, that are substantive, that are thousands of pounds and others are just an SIC code change.

MR. FEE: Susie, do you have that sentence? Could you read it back?

MS. FERGUSON: Well, I have done a couple of changes. I had divided up an idea that Ken had had between merits and concerns originally. So, I switched some things around. Let me read you merits now and read you concerns now and see if it gets everybody's -- captures the discussion.

Some burden reduction can be accomplished by reducing the need and opportunity for retroactively changing previously filed data. Some filers desire the opportunity to change previously filed data. This opportunity becomes a burden for filers when they persist in seeking to correct previously filed data and a burden for the agency where this requires frequent reentry and reanalysis of data concerns.

Filers need the opportunity to correct any errors that they find to avoid enforcement concerns. Baseline years also need to be open for revision. Also new guidance/requirements may dictate the need to revise the data where new data or data generation methods have resulted in recalculations.

Does that pretty much capture it? Have I missed?

MS. FASSINGER: I don't think that we have captured yet the point that I raised and Ed raised about the data being used for enforcement in other programs.

MS. FERGUSON: Isn't that broad enough when I said filers need the opportunity to correct any errors that they find to avoid enforcement concerns because I haven't spelled out where, when and how?

MS. FASSINGER: No, it could be -- because, again, I think the concern is not the filers are going to do what they need to do. I think the concern is that the agency needs to make some -- okay, if it changes internally to provide guidance to their other offices.

MR. SKERNOLIS: I think the establishment of any freeze date raises questions if EPA intends to use any prior information for enforcement purposes within and beyond the TRI program. Does that work?

MS. FASSINGER: I think that works. I would say not only EPA but EPA or states.

MR. SKERNOLIS: If the data is used without specifying who uses it for enforcement purposes.

MS. FERGUSON: Okay. Let me try this.

Filers need the opportunity to correct any errors that they find to avoid enforcement concerns as the freezing of data may cause concerns in those cases where the data is used for enforcement purposes.

MR. SKERNOLIS: Data from prior years. Data from prior years.

MS. FERGUSON: So, filers need the opportunity to correct any errors that they find to avoid enforcement concerns, as the freezing of data may cause concerns in those cases where the data from prior years may be used to initiate enforcement and other programs?

MR. SKERNOLIS: Enforcement actions.

MS. FASSINGER: I suggest two different sentences, not trying to put it all in one.

MR. SKERNOLIS: [Comment off microphone.]

MS. FEIL: Okay. No. 7.

MR. ORUM: Actually, may I raise one more concern with No. 6. The concern is that this approach doesn't do anything to reduce inaccurate reporting in the first instance, which would, of course, reduce burden on industry and EPA. I mean, it doesn't find out why these errors occur and propose any steps from intelligent software to electronic reporting that would reduce errors. It doesn't identify why these errors are occurring. And as part of the data management plan, that sort of proactivity would help.

MS. FERGUSON: Paul, I have done it a little broadly, but I have said freezing the data does not affect the root causes of the need to correct information in the system.

MR. ORUM: I would say to identify reasons -- that is real good. I would just add something about identifying the reasons why correct information enters the system in the first place and preventing that incorrect information.

MS. FERGUSON: It could be more than -- okay.
I am happy to read it. Freezing the data does not affect the root causes of initial inaccurate reporting.

MS. FEIL: Everyone okay?

MR. ORUM: Good.

MS. FERGUSON: Okay. No. 7. I was going to say this was my no brainer, but I wasn't going to say that because that is a curse.

MS. DOA: I don't know if you will think that this really adds a lot. This is from Vicky. No. 7. New industries need 99 Form a.s.a.p., especially if there are significant changes as we are programming input fields for current Form R now. So, I guess they need it a.s.a.p. so they do the programming for the facilities that have the electronic track-

ing, I guess.

MS. FERGUSON: So, is that a second merit that says in addition to assisting the efficiency of reporting, these are needed as soon as possible or should we add to the issue, make changes before new industries file, preferably as soon as possible, so that we can go and explain why it is important?

MS. DOA: I think her point was also they are programming input fields. I mean, they must have internal tracking and the more they know exactly what is in the instructions, the more that they can -- the earlier that they can program for that tracking. I don't know if there is a better way to put it

.

MS. FASSINGER: No, I think it is -- it should be a recommendation. It seems consistent with the issue.

MS. FERGUSON: We have got making changes well ahead of the deadlines for submitting the next series and the merits say if the changes are made, they don't have to do it twice. Also, the reporting systems are more efficient. Accurate? Efficient? I don't care what I write.

MR. ECK: Either one of those is fine. I just -- maybe an elaboration of Vicky's concern. Probably the new industries, even more than getting the changes in a hurry, you need to get something which is not going to change in a hurry. So, EPA may have to balance the time they have to make the changes with the need to get the 99 forms out before -- you know, as soon as possible for the new reporters to gear up. That is a concern. I don't know quite how to word that beyond what I did.

MR. SKERNOLIS: I think Vicky's concern -- and we have the same concern in my industry. We are doing the exact same thing as well. It is not just learning the procedure. It is systematizing the new rules for automated and non-automated internal controls. It is not just an education process. It is an implementation. I just think we just need to broaden they will not have to -- you know what I am getting at, Susie.

MS. FERGUSON: My only look at confusion is I don't know if I am working on speed for systems accuracy, a combination to add -- I can make up a statement on speed or accuracy into merits or make up two. It doesn't matter to me.

MR. SKERNOLIS: I was just getting at Vicky's -- it is the second phrase of the advocacy discussion. So, they will not have to learn the procedure twice or change –

MS. FERGUSON: Or those procedures that they are developing now will be better
?

MR. SKERNOLIS: Or change established systems based on current –

MS. FASSINGER: Maria, is it possible to provide Susie with the language that Vicky gave you?

MS. DOA: Sure.

MS. FERGUSON: Editorial to you -- if there are no concerns expressed, do you want to just delete the concerns section entirely?

PARTICIPANT: Yes.

MS. FERGUSON: Got it.

We can go on to 8 and I can add her -- if you all trust me.

MS. FEIL: No. 8.

MS. FERGUSON: This is Corey's position on the use and activity exemptions. He feels they have been narrowed lately and he wants not only to keep them but consider expansion. We didn't really have a great deal of understanding of this item during the discussion. So, I put questions around "none expressed." I figured that there may be some concerns that we haven't heard yet.

MR. ORUM: I would ask that at the end of the second sentence the word "et cetera" be removed and replaced with what the exemptions actually are. There aren't that many of them, but I can't remember them all. So, if we could actually list them there, that will help discussion.

MR. SPRINKER: Excuse me. This is Michael. I have to pop back to my other meeting here for a few -- for a little while. I will call back into the number when I get out of it.

MS. FERGUSON: Paul, I don't know what all of the use and exemptions that he is talking about. I just lifted

that language from his document. So, I will have to rely on -- I will contact Corey later for that.

MR. ORUM: It seems as though none of us may know fully what we are talking about here. This could be a number of things, de minimis, I don't know what.

MS. FERGUSON: He did have a citation to the Code of Federal Regulations or a guidance document in his packet that he provided to the group, but I don't have it here. I am sorry.

MR. ORUM: Maria, do you know what all of these use and activity exemptions are?

MS. DOA: Sure, I can look them up, what all the exemptions are. There is the de minimis exemptions. There is the article exemption. There is the lab exemption. Then there are exemptions to otherwise use and they are the motor vehicle maintenance exemption, the structural component exemption, the personal use exemption, the intake water exemption and the facility grounds maintenance exemption.

I think those are all -- and actually maybe Andy has a -- I saw Andy with –

MR. SKERNOLIS: I recommend we drop the sentence. I don't think you need it to make the point.

MS. FERGUSON: As long as I know what this covers. I didn't and had to ask so I understood where he was coming from. If people know what this means regulatorily or have a citation or other item, I don't think it is a problem, but just because we didn't understand it the first time we talked about it.

MR. SKERNOLIS: The recommendation I would make would be to say in the issue identification, EPA's regulations currently include activity and use exemptions that exclude, et cetera, and then finish the sentence as it is. Then under the advocacy discussion, delete the second sentence without having to list all of them.

MR. ORUM: I would again urge you to list them all for a specific reason. Let me express a couple of concerns with this and why I would oppose language that says that these should necessarily be maintained and expanded.

For example, it is my understanding that when utilities begin reporting, they won't be reporting releases of mercury because of I believe it is the de minimis exemption in the raw materials coming in. Another example would be the -- an overly broad interpretation would be aircraft carriers being considered motor vehicles. I think that was an issue for awhile.

Back on utilities, though, they are a major, major source of mercury, pollution release to air. So, those are a couple of big examples of where some of these use and activity exemptions go far beyond what I think should -- was intended in the law.

MR. SKERNOLIS: Paul, would you have an objection to just summarizing those as a concern that activity and use exemptions can be abused?

MR. ORUM: I would urge again two things. One, let's somehow list these activity and use exemptions not only so we can see what we are talking about but our readers can as well. We could be our readers' advocate here to let them know what exactly is under consideration. And then, two, I would just express the two concerns that I raised as examples.

MS. FERGUSON: Paul, I didn't capture what you said. So, if you could e-mail or fax me some language?

MR. ORUM: I will have difficulty doing that. So, let me just repeat it. Sorry about this –

MS. FERGUSON: Okay. Go real slow on the words.

MR. ORUM: A concern -- I will give you specifics. You can make it general, but utilities, coal-fired utilities, for example, when they report to TRI, because of the de minimis exemption won't be reporting releases of mercury.

MS. FERGUSON: Okay. Coal-fired detailed is because of the which?

MR. ORUM: The de minimis exemption. It can affect raw materials coming in. The mercury is not very concentrated. Yet, these coal-fired utilities release something like 50 million pounds a year and we have fish closures and mercury pollution in every state.

MS. FERGUSON: Sorry, Paul, I am losing it. Hang on.

MR. NATAN: For coal-fired power plants, certainly the airstream would meet the de minimis criteria for concentration. The problem with utilities is going to be that they won't probably meet the 25,000 pounds. So, I think that is -- I don't think the de minimis applies here.

MR. ORUM: I may be mistaken. I thought it did because of the concentration of the materials coming in. There are other areas, such as the -- EPA has made the determination that concentration is not de minimis exception on materials coming in.

MS. DOA: Paul, is another way to put what you are saying is that -- I understand, well, Corey believes that the exemptions should be expanded. You believe the exemptions I have listed have been interpreted more broadly than the regulatory language for the exemption and that EPA should bring them back in. Is that accurate?

MR. ORUM: Yes. And then I would provide the examples, the potential concerns over coal-fired utilities and mercury, aircraft carriers being called motor vehicles or the like. Those are the best examples I can come up with.

MS. FEIL: Susie, do you have that?

MS. FERGUSON: I have parts of it. Exemptions have been interpreted too broadly today by EPA. For example, coal-fired utilities because of a de minimis exemption will not be recording mercury and aircraft carriers having been covered as motor vehicles.

MR. ORUM: The third example was steel not reporting because of the de minimis exemption –

MS. FERGUSON: I am sorry. I missed that entirely.

PARTICIPANT: [Comment off microphone.]

MR. SKERNOLIS: I think it is inappropriate for this committee to identify one company in its report as an example of that.

MS. FERGUSON: [Comment off microphone.]

MR. SKERNOLIS: [Comment off microphone.]

MR. ORUM: I can’t hear you.

MR. SKERNOLIS: [Comment off microphone.]
MS. FASSINGER: [Comment off microphone.]

MR. ORUM: I am sorry. I can’t hear you.

MS. FASSINGER: I am just trying to broaden the statement to reflect your concern but not drag individual company names in here. If we say due to de minimis exemptions, certain chemicals, which may have an impact, may be in small concentrations, but in some have a great impact on the environment are not being reported. And just make that statement broad.

MR. ORUM: But basically, I think it communicates well the real examples -- they are much easier to understand than the concept -- specifically it is when materials come into facilities as raw materials in which the TRI chemical is concentrated below the de minimis but becomes concentrated sometimes -- hundreds of thousands of pounds in what goes out.

MS. DOA: May I make a suggestion?

Instead of the mercury and utilities example, Paul, because I think there are some issues there, you might say, for example, when raw materials of process, such that components -- wait -- when raw materials are processed, a component of the raw material that is concentrated in the waste may not be reportable because of the de minimis exemption. Do you know what I mean?

MR. ORUM: Yes.

MS. DOA: Would that be acceptable?

MR. ORUM: Sure.

MS. DOA: When raw materials are processed and the chemical in the raw material, which doesn’t go out in the product is concentrated in the waste above the de minimis concentration, it is not reportable at all because of the de minimis exemption and it may be significant quantities.

MR. SKERNOLIS: Unless it is a compound that is

newly manufactured in the process and comes out as a release, which is what happens with air emissions all the time.

MS. DOA: This is a real life example where you have something in the raw material and as you separate it out from the -- what is going to end up as a product, it gets concentrated in the waste stream above de minimis and it is not reportable. I think there is no technical issue there I don't think. I understand what you are saying and then there are the manufacturers and byproducts and you don't get de minimis for that.

MS. FEIL: Susie, do you have something?

MS. FERGUSON: Close. Let me finish my thought real quick and I will read it back.

Okay. For example, when raw materials are processed, toxic chemicals may be concentrated in waste streams and go unreported.

MS. FEIL: Okay. Are we all through with No. 8?

MS. FERGUSON: Can we go broader on the list or do we have to have the specific list because I will need the list from Maria later? You talk much faster than I type. Did we decide broad is okay or do we want –

MR. ORUM: Again, list the list so we can know what we are talking about.

MS. FEIL: Anything else. Do you want to -- we have got about half an hour left. Do you want to move on to the next paper?

MS. FERGUSON: I would like to start a discussion on it because it is different and I want to kind of offer up an alternative approach to the next one.

When we tried to produce our paper in the format originally, we put this discussion in and tried to do merits and concerns, but the Form A discussion didn't fit that guideline and I think there are a couple of reasons for that. I think we never -- we heard and responded to the three federal agencies presentation, but we as a group didn't carry any of the issues forward. So, it is hard to do whether our ideas, merits and concerns from that.

So, I just tried as best I could to group like items and capture the flavor of the discussion and suggested it go as a stand alone document. Why don't -- you know, we can go through and edit if we have said something inappropriate, but I would move that this paper not follow the other formats because I don't know how to do that.

Or if it does, I would like another volunteer to make it -- because it is beyond me -- and go forward.

MS. FEIL: Is everybody okay with that? Okay.
Do you want to start the discussion, Susie, or –

MR. SKERNOLIS: You want another idea? Correct me if I am wrong, Susie, but as I understand the way we are talking about this now, we are not trying to ensure that merits and concerns have been properly articulated or accurately -- this is just a -- does your report capture everything important that was said about the presentation made to us by us? That might be a kind of review that can be done over the interim.

MS. FERGUSON: [Comment off microphone.]

MR. SKERNOLIS: With comments similar to what we are intending to do with Jon's Form R product, since I would imagine these comments, since they are basically going to be saying -- if we go back into the record, somebody said this about it and it is not reflected in my summary.

MS. FERGUSON: For the reporting purposes, what I did is bleeped out names and group like ideas and just tried to capture most of the minutes. That is what this is. So, if folks have concerns about the minutes from the Form A discussion or this, a correction of it, we owed the agencies a response to their review of the from because they had some deadlines under the paperwork, whatever act -- that works for me.

If folks would prefer to look at it at their leisure and comment back or if they want to go through it now, it doesn't matter to me.

MR. ORUM: This is Paul Orum.
Let me give my opinion that this is a very good summary of the discussions that we had. The only thing I would change is I would add some stuff up front possibly to indicate why this is a special addendum or something to the other three

subcommittee reports. In other words, why it is a little bit different.

I strongly agree that we should not rework and re-hash into the same format as the others because really it is a very good summary of a lot of very disparate discussions.

MR. FEE: Yes. I like your suggestion of adding some kind of initial descriptions or describe that this is a different process.

MS. FERGUSON: [Comment off microphone.]
Do you recall when the form was due for review? There was a deadline that it had to be re-reviewed by.

MR. FEE: August 31st.

MS. FERGUSON: 1998? But that was the -- as I recall, that was the driving force behind getting review or public input back on that form.

If anybody sees any issues where they believe they were misquoted or poorly captured, holler at me and we will change it.

MS. FEIL: Joan.

MS. FASSINGER: I don't understand why this should be a separate report. The package in total does a very good job of reflecting the discussions of the committee. Just because this doesn't fit the same format -- and I think this is the same point I brought up earlier -- if you are looking at form changes, the format of the summary does not necessarily have to be the same as the format of other summaries to be able to fit as a package.

MR. ORUM: [Comment off microphone.]

MS. FASSINGER: I would suggest we just leave them all together and this not be an appendix or a separate document.

MR. FEE: I didn't realize it. I thought this was still going to be just a chapter along with the burden reduction stuff, not –

MS. FERGUSON: I thought so, too, but I think I mis-

understood what Joan just said. I think, if Joan was saying we could use it -- it could be an appendix. It could be an appendix. I am not –

MR. FEE: She is suggesting she didn't want it to be an appendix. She just thought it was.

I didn't think it was going to be either an appendix or a separate document.

MS. FASSINGER: Okay. I must have misunderstood.

MS. FERGUSON: Right now, it is just a different chapter. I don't know how we are organizing the paper, but it is a different animal somehow combined in the paper as a product

.

MS. FEIL: Any other comments on that? Okay.

MR. NATAN: We have an observer from the -- you are from the Edison Electric Institute, right?

AUDIENCE: Right.

MR. NATAN: She was explaining to me how the de minimis exemption from mercury and power plants does not apply. So, I think we all ought to hear it from her if you want to take a minute to her explain that.

MR. FEE: Unless we have other committee issues, we need to, you know, cover before we leave here. It is okay with me. That would be fine if we didn't have anything else to cover, but I think we need to make sure we cover what we need to do when we leave here. I want to make sure that that is squared away so that we are not confused as to where we go. Then if we have time, that would be great.

MS. FEIL: Susie, do you want to add something first?

MS. FERGUSON: Yes. I was just going to regurgitate what I think I am supposed to do with what I have and who needs to get that and ask if anybody else needs to get it so I understand what I do next.

Then I think we -- I have another suggestion for how to make the first attempt at gluing this altogether. I would suggest maybe, unless there are other volunteers, in which case I would pass my name to their -- a subcommittee of the

chairs get back together and try to just work out a format and how to put it altogether and what pieces to offer back up to the full committee in the interval between now and our next meeting, so you can see what it would look like as a document. And then feel free to edit and comment on that.

But it seems to me a first cut at that would advance our discussion next time. If anybody else would prefer to take on that task, I would be happy to bow out of it.

MR. FEE: Part of that task is to also write drafts -- some of the other stuff, the background of the committee, introduction, the process, some of the up front stuff that is going to be needed in the report.

What else did we identify? I mean, we are going to have these minutes as attachments. Is there any other -- based on that outline that I had given you on the TDR report, were there any elements of that that anyone felt was –

MR. STEIDEL: Are we going to do an executive summary?

MR. FEE: I don’t know. As short as -- we can talk about that -- as short of this is going to be, other than the appendices, which is -- if it is the minutes, it is going to be fairly large.

MS. FERGUSON: Can you delegate the issue of an exec summary to the subcommittee to see how it looks and if there are things that pull together and if it looks like it would work, we will pull something out as a draft that people can kill and just go with the regular report, too?

MR. FEE: I think we need to first put the three items together, write an introduction and then see how an executive summary may or may not make sense there.

Let’s see. With respect to the -- Susie, you have the PDR groups’ latest comments. You sort of now are actually the keeper of the -- not keeper, but holder of the latest version.

MS. FERGUSON: The PDR is difficult because I have to find it and mesh it back together, but what we have done in terms of burden reduction, though it needs some editing and Form R are on a disk EPA can take back that I am going to

leave with them, but I am going to save it on my hard drive. The PDR thing I will put together and e-mail back out to the contractor and you Monday.

MR. FEE: Yes, because I have taken a fair amount of notes and just so my notes match and then the PDRs will be done. Then the other two groups are going to do some massaging. The Form R a little more. The burden reduction a little less to get it in that format of issues, ideas, merits and concerns. I am sort of -- yes? Is that the thinking?

And then -- and, Susie, you are going to do that for the burden reduction?

MS. FERGUSON: I am going to look for Ed and some others to help me on those areas of their section where we wanted to convert some things to concerns and do some more –

MR. FEE: So, you are going to reconvene once with your group and, Jon, you will reconvene with your group. You will physically make that those textual changes, but then you are going to get back to your subgroup to have them sort of look it over before you then have a draft that goes out to all of us.

MR. STONE: That part is correct. I have asked the people to compose some of the key sections, like Bob. He is going to redo his personally, that section on POTWs. It will be incorporated but the whole package will be, hopefully, together by early next week, certainly by the end of next week.

I have a question for Paul. Is there anywhere that I can access you either by e-mail or fax in the next one to two weeks?

MR. ORUM: Actually, I will be in Japan from Monday through the 12th and may have jury duty the 14th and 15th. So, probably no.

MR. STONE: Thank you.

MS. SUBRA: [Comment off microphone.]

MR. ORUM: I didn’t hear you.

MS. SUBRA: I am going to Japan on Labor Day. So, Jonathan is going to e-mail it to me on Friday before Labor

Day and I will hand carry it to you.

MR. ORUM: Okay.

MR. FEE: Japan is a big country.

MS. SUBRA: I wanted that job to go find Paul someplace in Japan. It may take me awhile.

MR. FEE: $9 overnight. He is not on top of Mt. Fuji. Nope. Have to look somewhere else.

[Multiple discussions.]

Susie, I think we are going to generally work in Word Perfect. I think that is going to be the accepted -- because that also works with EPA.

MS. FEIL: Okay. Anything else we need to cover?

MS. PRICE: So, you guys -- from EPA's point of view, you guys will get us whenever -- when you are -- do you have a date set that you want to have your document ready to be sent out to the whole rest of the committee that we should be looking or do you just want to let me know or –

MR. FEE: Jon, it might be most dependent on your group. I am thinking maybe September 18th to the 20th might be the time frame for having a draft, where we combine all three -- what we call four chapters together. Would that be a time frame that -- or is it too much time?

MR. STONE: That would work fine. I think by the 17th, 18th, if I can get a copy to Paul and if he has any real concerns that based on what I have from his right here, plus what I will have, I hope to have two drafts through the subcommittee by that date. So, the answer is I am quite confident that I could have a final, quote, draft to EPA by the 17th, 18th. I don't have a problem with that.

MR. FEE: September 18th.

MR. STONE: Fine.

MR. FEE: I am not sure if -- you are not going to send it -- well, send it to me and to EPA and we will worry about who is going to merge it.

[Multiple discussions.]

MS. FEIL: Okay. Any other things that need to be covered?

MR. SKERNOLIS: I just wanted to pin down then that EPA is going to provide an agenda for the next meeting consistent with what we agreed upon earlier and there is an understanding, no extraneous issues and that is what we –

MS. FEIL: -- a process conversation part of that agenda?

MS. PRICE: This is from EPA's point, what I have down for the next meeting is a whole day working on this report, either, you know, the three different reports from the three different groups and then sort of the structure of the whole report and then a half day on the future issues, such as -- or the topics under that are what are the issues that the committee would work on. Does the committee want to continue or do the people on the committee want to continue? You guys mentioned a vote on whether or not you guys think it should go on, depending on the issues.

Then if you do decide to continue, what would follow would be a process discussion and a discussion about what a product from those discussions would be. From EPA's point of view, we would get out a paper to you guys, at least a week before the meeting, on what we think the future issues should be.

The other thing I have that we owe you all is a summary of the discussion from yesterday or what we understood your feedback from yesterday's discussion on the timing of the availability of the actual data sets, like ENVIROFACTS and all that, the issue we discussed yesterday morning.

MR. SKERNOLIS: Can I add one suggestion that we add at the end of our agenda, that the last item be preparation and planning? That is if we are going to have future meetings -- preparation and planning for the next meeting be accomplished as the last item at that meeting. So that if we are going to have another meeting in December, something that has already been planned out as to what we are going to try to do at that meeting.

MS. FEIL: Joan.

MS. FASSINGER: I just had a process question on the document just to make it clear then as the next round of drafts, hopefully, the final draft is developed, are we going to -- in order to not get caught up in what we have gone through the last couple days again, I mean, it was necessary at this point, but we don't want to spend two more days going through this again -- do we want to say that only if you have very extreme substantive objections against something that ends up in the final draft, that that be brought forth at the next meeting and any other edits be handled prior to the meeting?

MS. FEIL: How do people feel about that?

MR. FEE: I thought that was our thought, that given the time frame of the next meeting being late October, that we would have a chance to have some give and take.

MS. FERGUSON: I think the comment holds true for the ground that we have covered on less comfortable, where I have been left to bring you wording back or others have, or we are writing new areas like the process and other issues that we capture the flavor of what the group wants.

So, on things that are new to people, I would think they would have opportunities to comment on them. On things that we have covered in more ground, if you can get your edits or comments back on those, I think that is a good ground rule, but for -- if we format things together, we will be introducing new issues and the group always seems to have an opinion on those.

MR. STEIDEL: I guess, just so I am clear, you are not going to go back and tell your management that we are going to think about we want to continue a committee you invited us to sit on in a few -- a month, I mean, are you?

EPA invited us to sit on this committee. Now, I guess, we are going to make a decision whether this committee goes forward. I hope you couch it nicely in terms to your management that we appreciate the comment, the opportunity to still be here --

[Multiple discussions.]

-- and don't get them angry at us.

MS. FEIL: Okay. Anything else?

MS. FERGUSON: We still don’t have Mike Sprinker’s -- I do -- one more business item for the next meeting, if we could have -- this is a formal, official request -- if we could have somebody, who really types and one of those computers that also puts things up on the screen so you can actually edit as you go, that would facilitate getting things through much easier.

MR. SKERNOLIS: [Comment off microphone.]

MS. FEIL: Can you use your microphone, please?

MR. SKERNOLIS: Is it possible that -- I know it is possible, but is it part of the plausible scenarios for the next meeting that EPA would come back and say we no longer want you guys as a NACEPT committee? In a nice way, but, you know.

MS. DOA: Unlikely
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MR. SKERNOLIS: [Comment off microphone.]

MS. FEIL: Microphone, please.

MR. SKERNOLIS: This is more off the record. I don’t want Paul to hear it.

MS. DOA: What we will do is we will go back with the issues that you have brought up and how the committee voted, prioritized them and then, I think, Lynn will decide which ones of these she wants to go forward with. So, it will be sort of a combined –

MR. FEE: Okay. This meeting is adjourned.

[Whereupon, at 2:55 p.m., the meeting was concluded.]