

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

ADVISORY BOARD OPEN MEETING

HAZARDOUS WASTE ELECTRONIC MANIFEST SYSTEM

(e-Manifest)

CRYSTAL CITY MARRIOTT

AT REAGAN NATIONAL AIRPORT

1999 JEFFERSON DAVIS HIGHWAY

SALON ROOM D&E

ARLINGTON, VIRGINIA

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1                   **DR. FRED JENKINS:** Good morning,  
2 everyone. I'm going to ask everyone if they could  
3 please get seated. We're about to get started.

4                   Good morning again. I want to welcome  
5 everyone to this very first e-Manifest Advisory Board  
6 Meeting. The theme of this particular meeting is  
7 System Launch Day 1 e-Manifest.

8                   My name is Fred Jenkins, and I am the  
9 designated federal officer for the e-Manifest Advisory  
10 Board.

11                   Before we get started, I would just  
12 like to take just a couple of minutes to go over some  
13 very important administrative items. As a DFO, I  
14 serve as the liaison between the Board and the Agency,  
15 and I am responsible for ensuring that the provisions  
16 of the Federal Advisory Committee Act are met.

17                   I want to extend my thanks to this  
18 entire Advisory Board for agreeing to serve on this  
19 committee. And also, I want to extend my thanks to  
20 the public for attending this meeting.

21                   The e-Manifest is a -- the e-Manifest  
22 Advisory Board is a federal advisory committee that  
23 provides independent peer review and advice to the  
24 Agency on operational matters related to the e-

1 Manifest system. It's important to note that the  
2 Advisory Board only provides advice and  
3 recommendations to EPA, and all regulatory decision-  
4 making and implementation authority remains with the  
5 Agency.

6 The e-Manifest Advisory Board is  
7 composed of nine members. In accordance with the e-  
8 Manifest Act, this includes the EPA administrator or  
9 designee to serve as chair of the Board. Our  
10 designated chair is Barnes Johnson, the director of  
11 the Office of Resource Conservation and Recovery.

12 The other members include six  
13 representative members. These six representative  
14 members include three members who represent users of  
15 manifest systems to track the transportation of  
16 hazardous waste under the e-Manifest Act. And the  
17 other three representative members are state  
18 representatives responsible for processing e-Manifest.

19 There are two non-representative  
20 members of the e-Manifest Advisory Board. These two  
21 non-representative members are appointed solely for  
22 their expertise in information technology. In our  
23 case, one of the two IT members, IT expert members,  
24 has been appointed as a special government employee.

1 And the other IT expert is currently a federal  
2 government employee. So thus, they are a regular  
3 government employee expert member or RGE member. So  
4 we have an SGE member and an RGE member as our two IT  
5 experts.

6 These two IT experts are speaking and  
7 providing advice on behalf of themselves as experts in  
8 their field. Both of these IT experts are subject to  
9 the applicable ethics laws. We have worked with  
10 appropriate Agency officials to ensure that all  
11 appropriate ethics regulations are met for this  
12 meeting.

13 These two experts have -- these two  
14 members have provided the -- have been provided the  
15 provisions of the federal conflict of interest laws,  
16 and both of them have filed a financial disclosure  
17 report. I, along with a deputy ethics officer and in  
18 consultation with the Office of General Counsel, have  
19 reviewed these reports to ensure all ethics  
20 requirements are met.

21 This meeting provides the opportunity  
22 for public comment. Thus far, no one has yet signed  
23 up for the public comment period, which is going to be  
24 tomorrow. However, we highly encourage members of the

1 interested public, stakeholder community, et cetera,  
2 to participate and take advantage of the public  
3 comment period that's going to occur tomorrow morning.

4           Given that -- if you haven't made prior  
5 arrangements with me to provide your public comments,  
6 please let me know. And I'm going to ask that you  
7 please restrict your comments to five minutes when you  
8 do provide them. And you can let me know at any point  
9 in the meeting if you want to provide public comments  
10 as long as it's before the public comment period.

11           There's a public docket for this  
12 meeting. The docket number is listed on the agenda.  
13 All background materials and other related dockets --  
14 documents are available in the docket.

15           The slides of this -- the EPA  
16 presentations that you will see today, they're  
17 currently posted on our -- the website for this  
18 meeting. Those will be posted into our -- that same  
19 docket in the coming days.

20           At this point, I want to introduce and  
21 extend my thanks to Barnes Johnson, the ORCR director  
22 and chair -- delegated chair of the e-Manifest  
23 Advisory Board.

24           Thank you.

1                   **MR. BARNES JOHNSON:** Thanks, Fred. So  
2 we're going to go around and introduce ourselves now.  
3 So as Fred mentioned, I'm Barnes Johnson. So let me  
4 turn it over to Justin. And I just ask the panel  
5 members to hit the button and speak into the speaker.

6                   Thank you.

7                   **MR. JUSTIN WILSON:** Justin Wilson, Wal-  
8 Mart Stores Inc., Environmental Compliance. I am a  
9 representative member.

10                  **MS. CYNTHIA WALCZAK:** Cindy Walczak,  
11 MPS Group. We provide total waste management and  
12 resource management support to third -- to generators,  
13 large quantity/small quantity and condition-exempt.

14                  **MR. JOHN RIDGWAY:** Good morning. I'm  
15 John Ridgway from the Washington State Department of  
16 Ecology. I'm one of the state representative members.

17                  **MR. RAJ PAUL:** Raj Paul from  
18 Lochbridge, a systems integrator based in Detroit.  
19 I'm part of the Board as an IT expert.

20                  **MR. ROBERT KLOPP:** I'm Rob Klopp. I'm  
21 the CIO and Deputy Commissioner of Systems at the  
22 Social Security Administration. And I'm also one of  
23 the expert members.

24                  **MR. MICHAEL HURLEY:** Mike Hurley,

1 Massachusetts Department of Environmental Protection.

2 **MR. JOSHUA BURMAN:** Joshua Burman,  
3 Minnesota Pollution Control Agency state  
4 representative member.

5 **MR. THOMAS BAKER:** Tom Baker with  
6 Veolia, industry representative. We operate hazardous  
7 waste treatment facilities and also service generators  
8 of hazardous waste, providing transportation and  
9 manifesting services to those companies.

10 **MR. BARNES JOHNSON:** Thanks, Thomas.  
11 Thanks, everyone.

12 So now I'm going to just take a moment  
13 and introduce the -- Mathy Stanislaus, the assistant  
14 administrator for the Office of Land and Emergency  
15 Management here at EPA. I've had the pleasure of  
16 working with Mathy over the last number of years. And  
17 e-Manifest is an issue that is near and dear to his  
18 heart.

19 Over the last eight years, he's seen it  
20 from a -- from just its concept to a piece of draft  
21 legislation to actually managing the initial  
22 development of the system. So Mathy's been here  
23 through this road that we've been on for the last  
24 number of years.

1 Mathy, we're looking forward to your  
2 welcome and opening remarks.

3 **MR. MATHY STANISLAUS:** Okay. Well,  
4 thank you all. And thank you all for joining and  
5 taking on this important responsibility.

6 As Barnes has noted, there's been a lot  
7 of progress of e-Manifest and still, frankly, a lot of  
8 work to do. And you all play a critical role in that,  
9 and now you're going to get in more details regarding  
10 that bullet in terms of advice on the fee structure  
11 and other associate policy and program advice and move  
12 it forward.

13 Just to walk through a little bit of  
14 the background and, frankly, some of the challenges  
15 that we've had and we will continue to have, you know,  
16 the act, the Hazardous Waste Electronic Manifest  
17 Establishment Act, as you all know, establishes a  
18 national hazardous waste electronic manifest tracking  
19 system which will be supported by fee revenue that  
20 will track greater user participation.

21 It puts in place the -- kind of the  
22 efficiencies and transparencies associated with having  
23 these -- this manifest be done electronically and  
24 establishes the Advisory Board that you serve on and



1 to make recommendations on system effectiveness and  
2 user fees.

3 These three distinctive and crucial  
4 entities -- the system, the fee rule, and the Federal  
5 Advisory Committee -- you know, all serve to deliver a  
6 system that meets the needs of stakeholders and to  
7 contingent -- continually improve on itself through  
8 engagement and communication.

9 Above all, e-Manifest, you know, really  
10 represents a new and better way for government to  
11 deliver services. E-Manifest will significantly  
12 improve access to high quality and more timely waste  
13 shipment data. It will empower communities through  
14 increased transparency, provide more accurate  
15 information on completed waste shipments and  
16 management trends.

17 Now, e-Manifest is the flagship  
18 component of EPA's E-Enterprise initiative, you know,  
19 which is a new model for collaborative leadership  
20 among environmental co-regulators working together  
21 with environmental leaders at EPA states and tribes  
22 and who are utilizing this E-Enterprise model and  
23 approach to simplify, streamline, modernize  
24 implementation of environmental programs while

1 bringing together kind of economic efficiencies as  
2 well.

3 E-Enterprise, the whole intention is to  
4 enable the environmental protection enterprise to be  
5 more informed, timely, and productive to result in  
6 better health, environmental outcomes while, again,  
7 bringing to bear economic efficiencies and supporting  
8 local communities.

9 Now, E-Enterprise helps -- the  
10 intention is to help foster greater trust among the  
11 regulator community, the public, and co-regulators by  
12 improving data integrity and communication.

13 Now, you are representing the broad  
14 perspective as set forth in the statute and to bring  
15 that perspective to help inform the effectiveness of  
16 the e-Manifest program to provide recommendations in  
17 advisory way to the Agency for its deliberation and  
18 consideration.

19 I want to first thank you all for the  
20 sacrifices that you -- we've already taken and will be  
21 taking when we try to exploit your intelligence  
22 throughout this process.

23 Just a little bit, frankly, about our  
24 challenges. You know, we have made significant

1 process in fulfilling the e-Manifest act, you know,  
2 but the appropriations have not met the need. There's  
3 no getting around that, you know.

4 Just to walk you through, since 2014,  
5 you know, we have stated it will cost \$16 million to  
6 build the e-Manifest application, an additional cost  
7 to support the user fee rule development and the  
8 Federal Advisory Board. And to this point, we have  
9 not received that total funding.

10 The last three presidential budgets put  
11 forth a request that the level of funding needed to  
12 advance the e-Manifest project. In the FY 2015  
13 budget, the president put forth a budget of \$10.42  
14 million and, subsequently, in FY-16 and '17, 7.36 and  
15 \$7.37 million, respectively.

16 In total, however, e-Manifest received  
17 only \$11.02 million to date, you know, and we've had  
18 to manage that to really try to meet the efficiencies  
19 that we hope to gain. And I think both EPA staff  
20 working with you all, I've really been impressed with  
21 kind of both the regulator community really dedicating  
22 their time to really have us get moving, the states  
23 bringing the expertise that they brought to bear, the  
24 IT experts.

1           You know, despite those funding  
2 shortages, we've been -- we've had to and we have  
3 moved forward as aggressively as possible to advance  
4 the program. Now, in looking forward, the Agency will  
5 need resources to support the operational cost of the  
6 system. Specifically, this includes establishing  
7 operating the paper-processing center, an IT help desk  
8 to enable us a process paper manifest and assist a  
9 system user as we hopefully get to have a maximum use  
10 of the electronic systems.

11           You know, startups face challenges.  
12 There's no doubt that we will have those challenges.  
13 But we hope in working with you all, working broadly  
14 with stakeholders, that we build a system that not  
15 only not -- not only meets the needs of users brings  
16 to bear the intended efficiencies and transparency for  
17 all stakeholders to move forward on a system that's  
18 win-win.

19           A little bit about the system's  
20 development. You know, from the outset of the  
21 program, EPA is dedicated to user center design and  
22 development. The development team regularly engages  
23 with stakeholders to design the best possible system.  
24 EPA completed an initial proof of concept September

1 2015 and is working on a prototype to be completed on  
2 March 2016. Currently, EPA is finalizing an e-  
3 Manifest Release 1 which, along with an updated web  
4 application, will represent the basic system  
5 functionality from all sides of the manifest  
6 transaction. The plan is to finalize a pre-launch  
7 system by early 2018.

8 Now, there are also associated rules to  
9 enable and put in place this system. In 2014, we  
10 finalized what's called the one-year rule -- we'll get  
11 in more details on that later -- which provides the  
12 basic authority to implement an electronic manifest  
13 use. And in the summer of 2016, the user fee proposed  
14 rule was published to set forth the basis and the  
15 construct of implementing the user that will support  
16 the e-Manifest -- the system. The plan is to propose  
17 a final rule in 2017.

18 A little bit about the benefits. EPA  
19 has to miss -- e-Manifest system will ultimately  
20 reduce the burden associated preparing shipping  
21 manifest by between 300,000 and 700,000 hours, saving  
22 state and industry users 75 to \$90 million annually.  
23 Overall, the system will produce cost savings, better  
24 and more timely information on waste shipments, more

1 rapid notification of discrepancies or other problems  
2 related to a particular shipment, the creation of a  
3 single hub for one-stop reporting of manifest data to  
4 EPA and states and more effective compliance  
5 monitoring of waste shipments by regulators.

6 Just to give you kind of order of  
7 magnitude comparison, there are 3 to 5 million  
8 manifests per year. There's a fairly significant  
9 amount of the manifests that's currently done by paper  
10 in a, frankly, highly inefficient way. So again,  
11 there are 3 to 5 million manifests a year.

12 Annually, the optimized system will go  
13 to eliminate stacks of paper three to five times the  
14 size of Freedom Tower, just to give you a sense of  
15 magnitude to how much paper we would reduce, as well  
16 as the associated various economic efficiencies.

17 You know, I think from the beginning,  
18 we've tried to put in place kind of an open source  
19 philosophy to the building of this system. You know,  
20 and we think it's really critical that we gain the  
21 expertise that exists out there and the needs that  
22 various stakeholders have because we want to make sure  
23 our system is working and, again, interact with  
24 existing systems that also meets the needs for

1 transparency.

2           You know, we're using an open source  
3 code, post project updates daily, and host bi-weekly  
4 demonstrations for government stakeholders. User fee  
5 rule is also part of the eRegulations pilot, which  
6 allows the public to streamline ways to comment on  
7 proposed -- the proposed rule online.

8           And the Advisory Board is a critical  
9 part of our engagement strategy, affording us  
10 opportunity to present our program in a public forum  
11 to obtain thoughtful and productive feedback.

12           Now, again, on the panel, we have,  
13 again, a great mix of stakeholders and expertise. And  
14 again, I want to appreciate your commitment to that.  
15 And the Board is crucial for the launching of the  
16 system and look forward to the results, although I  
17 will see those results on the outside since I'll be  
18 leaving this job next week.

19           **MR. MATHY STANISLAUS:** So without  
20 further ado, I'd like to, again, turn it back to  
21 Barnes for the rest of the meeting. So good luck.

22           **MR. BARNES JOHNSON:** Thanks, Mathy.  
23 Appreciate it.

24           We're going to dive right into the

1 agenda here. Hopefully, everyone in the room was able  
2 to pick up an agenda outside. Just to give a quick  
3 review of what our path is over the next several days,  
4 we're going to spend today really -- thank you, Mathy,  
5 very much.

6 **MR. MATHY STANISLAUS:** Thank you.  
7 Thank you.

8 **MR. BARNES JOHNSON:** We're going to  
9 spend today hearing from the e-Manifest technical  
10 team, who is going to give us an in-depth overview of  
11 the number of pieces that Mathy talked about. So  
12 we'll hear from them today. It's going to be an  
13 opportunity for the committee to the Board to ask our  
14 folks questions and discuss the approach and some of  
15 the thinking behind what we've been up to.

16 Then tomorrow morning, we have a public  
17 comment opportunity. And as Fred said, we really  
18 strongly encourage public comment. So please don't be  
19 shy. I know the Board would really like to hear from  
20 the public, from stakeholders, what some of their  
21 thoughts and ideas are.

22 Then after public comments -- and I  
23 will add that this is a floating agenda. So we're  
24 going to pound through it. If we go faster than



1 what's indicated, we're going to do that. So -- but  
2 after the public comment period, but certainly no  
3 later than tomorrow afternoon, we're going to start  
4 tackling the charge questions that have been advanced  
5 to the Board. And there have been lead discussants  
6 identified across the Board as well as associate  
7 discussants. And then of course, the whole Board will  
8 have an opportunity to weigh in on each question.  
9 That is going to take us to the end of the meeting, so  
10 over the next, basically, a follow -- the day and a  
11 half.

12 I'm not going to -- without, really,  
13 any further background, I'm going to invite Rich  
14 LaShier up to the table. Rich is going to give us an  
15 overview of e-Manifest background information. To let  
16 folks know, I've had the pleasure of working with Rich  
17 for a number of years.

18 Rich has been involved in manifest  
19 issues for way more than 20 years and, I know, has  
20 been thinking about this notion of converting the  
21 manifest system into an automated approach for at  
22 least 20 years and has tremendous depth of knowledge  
23 on this topic.

24 You're in good hands. And so please,

1 you know, pummel Rich with questions.

2 **MR. BARNES JOHNSON:** So Rich, please.

3 **MR. RICHARD LASHIER:** The light is red  
4 now. So I take it that means we are active. Oh,  
5 okay.

6 Well, thank you, Barnes.

7 And as Barnes indicated, I have been  
8 one of the champions of e-Manifest now for more years  
9 than I wish to admit. But it's been a long haul, and  
10 it's had ups and downs over the years. But on the  
11 whole, we've been making quite a bit of progress in  
12 the last several years with legislative mandates and  
13 all and some bit of a budget -- never quite enough,  
14 but we've been doing the best we can.

15 And on my end, I work on the policy  
16 side of e-Manifest. It's obviously a very diverse  
17 group. We have system developers, IT specialists  
18 working on the system side of it. I've been more of  
19 the champion and the policy side working on the  
20 regulatory side because you know the -- if you see in  
21 the act, all of you know that it called for the  
22 establishment of an IT system. But it also called for  
23 us to develop the regulatory regime, provide the legal  
24 and policy framework to support e-Manifest. So I've

1       been working on that policy and regulatory side. So  
2       later today, I'll be talking to you abo the One Year  
3       Rule and the user fee rule, which is currently  
4       pending.

5                   But now let's move on to give you a  
6       little bit of a background overview. Did I just turn  
7       it off? Oh, okay. There we go.

8                   Now, the challenge for me here today is  
9       that a lot of you folks that are on the table here are  
10      very steeped in the manifest and the use of the  
11      manifest, and you could tell me a lot about the  
12      manifest. I shouldn't be trying to educate you. But  
13      we also have a group of folks who maybe are not  
14      manifest experts or are coming into it for the first  
15      time to lend their expertise on the IT side or other  
16      systems throughout the government side.

17                   I want to give them just enough of the  
18      fundamentals so they'll understand what the manifest  
19      is about both in the current system, what the e-  
20      Manifest is trying to do, what its purpose might be  
21      and then so you can get an appreciation for what we're  
22      trying to accomplish as we go forward with developing  
23      the system and the regulatory framework to support it.

24                   Just to give you the basic background,

1 the manifest system is the documents, the form  
2 currently, that documents the offsite shipments of  
3 hazardous waste are designated for and are -- and, in  
4 fact, arrive at facilities that are authorized to  
5 manage them. That language there, "Designated for and  
6 arrive at," that's the very important operative  
7 language. That was taken from the 1976 statute  
8 itself. That's the mandate to develop a manifest  
9 system in the 1976 RCRA statute.

10 And of course, there were tracking  
11 documents, shipping papers, bills of lading before  
12 there was a manifest. But the problem was that there  
13 were some notorious midnight dumping scenarios that  
14 came to the floor in the '70s, and congress decided  
15 there needed to be more done for tracking hazardous  
16 waste.

17 Manifest and its purpose is a way to  
18 provide the documentation, the actual proof of the so-  
19 called RCRA cradle-to-grave management. You might  
20 know enough about RCRA to know that oftentimes people  
21 say RCRA cradle to grave. Cradle to grave just means  
22 it's very comprehensive.

23 It deals with waste from the point when  
24 it's generated, during its transportation, on to its

1 management at landfills, incinerators, or other types  
2 of permitted facilities. But there are very  
3 prescriptive and detailed requirements that apply to  
4 the management of hazardous waste throughout its life,  
5 routing to disposal and thereafter.

6 The manifest is meant to actually show  
7 graphically that chain of custody so that all those in  
8 the chain of waste handlers that are named on the  
9 manifest, that they took custody of the waste, and  
10 that it was, in fact, then delivered to the proper  
11 facility for actual management.

12 You're going to hear over the course of  
13 the days the term "waste handlers" used a lot. And I  
14 want to clarify what that means because this is the  
15 idea of cradle-to-grave. When you regulate waste  
16 handlers, we're talking about the generators. That's  
17 one class you regulate, very detailed. The generators  
18 are the folks whose act or process gives rise to  
19 regulated hazardous waste, be the -- there's a test  
20 they can run that has the written characteristics or  
21 their listed waste. If they handle one of those  
22 wastes and decide to discard it, they are a generator  
23 of hazard waste, and we have detailed requirements on  
24 what they must do.

1                   There's also what we call the  
2 transporters of hazardous waste. That should be self-  
3 explanatory. And the generators are the DOT  
4 equivalent of shippers. Transporters are the DOT  
5 equivalent of carriers. But they have the same roles.  
6 The transporters move material offsite in commerce for  
7 proper disposal.

8                   Then of course, there is the receiving  
9 facilities. You're going to hear them referred to at  
10 times as designated facilities, receiving facilities,  
11 or TSDFs. Just to make it clear, in most cases,  
12 they're one and the same. The receiving facilities  
13 that must manage waste under RCRA are the permitted  
14 treatment storage and disposal facilities. They have  
15 detailed permits governing their operations -- their  
16 site operations, locations, and the like. But they  
17 are the facilities that are authorized to manage  
18 waste.

19                   When they are named on a manifest by a  
20 generator who must pick a facility that can handle  
21 their type of waste, they're called designated  
22 facilities because they're designated on the manifest  
23 as the appropriate receiving facility.

24                   Oftentimes, we use shorthand and call

1       them TSDFs. That's just our little jargon for  
2       treatment, storage, and disposal facilities. But they  
3       are the permitted facilities that are authorized to  
4       manage hazardous waste. In a nutshell, that's  
5       basically the handlers we're talking about --  
6       important that you understand when you hear those  
7       terms what we're referring to.

8                       The manifest, it shows the chain of  
9       custody. And I think you were actually given a copy  
10      of the form as part of your package. And rather than  
11      going on enjoining about it, I mean, a picture's worth  
12      a thousand words. If you see the form itself, this is  
13      how it documents the chain of custody.

14                      The top of the form is the information  
15      that generators fill out identifying themselves with  
16      their ID number.

17                      There's the waste information in the  
18      middle. This is really the guts of the manifest.  
19      It's the hazard information, and it's based on DOT  
20      Hazmat nomenclature. The guts of the manifest is the  
21      hazard information on what I'm shipping today.

22                      Then there is the certification, which  
23      is really the DOT certification that I properly  
24      prepared a waste for transportation.

1           Then you name the transporters, and you  
2 name the facilities -- receiving facility. That's the  
3 intended management of the waste, the top of the form.  
4 Then the actual carrying out of the transportation is  
5 documented on the bottom of the form.

6           When the transporter receives the waste  
7 to transport it, they sign the manifest and give a  
8 copy back to the generator. Then it goes to a second  
9 transporter. They sign the manifest and give a copy  
10 back to the first transporter until it arrives at  
11 designated facility to manage it. They sign for  
12 receipt and give a copy back to the transporter.

13           And then the receiving facility must  
14 then mail a copy back to the generator so the  
15 generator knows that their waste did, in fact, arrive  
16 at the facility that you chose on the manifest to  
17 manage it.

18           And then oftentimes, they have to send  
19 a copy to states because there are a number of states,  
20 about 20, that actually require copies of manifests to  
21 be sent to them so they can then key it into their  
22 tracking systems so they can manage the information,  
23 charge fees and the like for waste management and  
24 other things that states do with manifest data.



1           There's a fairly significant chain of  
2 handlers, receiving facilities, and those that want  
3 the data from the manifest that they're in line to  
4 receive copies of the manifest as the form makes its  
5 way through the chain of custody.

6           And again, the manifest was basically  
7 Congress's cure for the notorious episodes, the Love  
8 Canals, other things that occurred back in the '70s  
9 where waste ended up in all the wrong places. And so  
10 the idea was shed some light on what's actually  
11 happening, make generators more responsible.

12           Congress concluded that with all these  
13 notorious midnight dumping sites, it must have been  
14 the fault of some unscrupulous unregulated brokers and  
15 transporters who were playing fast and loose with  
16 generators' disposal fees, dropping waste where it  
17 shouldn't be dropped. So they decided they would put  
18 it in the open with this manifest form. So it was  
19 really meant to document the chain of custody,  
20 document cradle-to-grave management, and shed light  
21 and make transparent the issue of waste getting to the  
22 proper places.

23           That's the major function of the  
24 manifest as it related to a RCRA requirement. The

1 manifest does double duty. The bottom half of this  
2 slide makes the very important point that the manifest  
3 is also the shipping document required by DOT under  
4 its Hazmat requirements at 49 CFR. So the manifest is  
5 both the RCRA transportation document and the DOT  
6 Hazmat shipping paper because hazardous wastes are  
7 regulated as a subset of the hazardous materials that  
8 DOT regulates under 49 CFR, if you're familiar with  
9 the Hazmat program.

10                   And those are the much bigger program.  
11 We talk about 3 million manifests a year. DOT  
12 oversees 1 million hazmat shipments a day. When you  
13 consider all the gasoline tankers out there, you can  
14 see why that's a huge piece of work out there. So  
15 we're a much smaller piece of the action in the hazmat  
16 area, but we have common authority in the hazmat  
17 shipping paper area to regulate hazardous waste  
18 manifests.

19                   And most of the manifests, as I pointed  
20 out, this whole middle area that I've checked here on  
21 the form, consists of the shipping description  
22 information required by DOT under the Hazmat law. The  
23 shipping description must include the proper shipping  
24 name, the packing group or division, the hazard class

1 information, other requirements, the ID numbers  
2 required in the DOT Hazmat table at 49 CFR Part 172,  
3 Subpart B.

4 All of that hazmat table information  
5 shows up on the manifest at the proper shipping name  
6 and description, hazard classes, and the like. And  
7 that all must be placed on manifest consistent with  
8 DOT because emergency responders rely on that  
9 information. If something happens when a shipment is  
10 on route, they want to know the information that  
11 they're trained to respond to -- the shipping names  
12 and hazard classes under the DOT parts is what really  
13 responders are trained to respond to.

14 And they'll see information there on  
15 the hazardous material data sheets; information on the  
16 response guides; oftentimes listed on the manifest as  
17 well, the guide to emergency response. So it has that  
18 very important role of providing -- conveying  
19 information to -- for emergency response because it is  
20 a shipping paper under Hazmat law.

21 And indeed, the final point on this  
22 slide, the generator certification that is signed in  
23 the middle of the page, this is when the generator is  
24 ready to hand his waste to a transporter. They sign

1 this generator certification. It is verbatim the DOT  
2 shipper certification, what you certify that you have  
3 properly classified and described your hazardous  
4 wastes and that you have, in all respects, prepared  
5 the shipment properly for transportation under the  
6 transportation laws of the United States. That's  
7 basically what you're certifying to.

8           You're not certifying I'm a generator.  
9 You're certifying that it's been properly prepared by  
10 either me or my agent. There's a term called  
11 "offeror" where someone could actually step in there  
12 and do the preparation, prepare the packages, label  
13 them properly, and even sign the manifest in some  
14 cases. So the shipper or offeror must sign that  
15 certification we call the generator certification.

16           But you're saying it's fit for  
17 transportation -- no leaking containers, things  
18 properly described, things properly labeled, et  
19 cetera.

20           That's basically how the manifest works  
21 and how it fits within both the RCRA and the DOT  
22 nomenclature.

23           Now I want to talk to you a little bit  
24 about the checkered history of e-Manifest development.

1 And we got this little timeline here of some of the  
2 common historical actions in the development, or the  
3 etiology of e-Manifest, if you will. So I'm going to  
4 actually go back and forth a little bit with this  
5 slide because I'm actually going to be focused heavily  
6 on the points on Slide 6 as being the key points for  
7 you to retain today.

8 But we began our discussion with  
9 stakeholders about e-Manifest back in the late 1990s.  
10 I think our first meeting was out in Chicago in 1996  
11 or '97, thereabouts. We had a big meeting in D.C. in  
12 December of '97, San Francisco in '98. And were just  
13 then beginning to discuss with the stakeholders that  
14 there seemed to be this consensus developing that we  
15 need to get away from the mires of paper documents and  
16 do something a little more efficient with the manifest  
17 because you can see when you have a six-copy forms --  
18 six copies of this thing that everybody has to sign in  
19 turn -- it's carried with the truck, people sign them  
20 in sequence, pull off copies, give it back to the guy  
21 before me, then I mail it to people at the end -- it's  
22 a pretty paperwork-intensive, burdensome process, a  
23 lot of room for improvement.

24 That was the effort underway that we

1 can do better than this. And so we had a number of  
2 discussions in the late '90s with stakeholders, if I  
3 can go back. We had a couple of little early pilot  
4 projects that were done in the late '90s as well. We  
5 had -- did things back then. We were looking at  
6 electronic data interchange, or EDI, as a way to do e-  
7 Manifest. We know folks still use EDI, but this was  
8 an effort that was underway. In the late '90s, it was  
9 still a prominent way to do data exchange -- EDI. We  
10 looked at that.

11 We tested a few of the initial manifest  
12 form systems and electronic signature devices in the  
13 late '90s and got enough ideas there to realize that  
14 there seemed to be a proof of concept that worked  
15 here.

16 We were trying to flush that out with a  
17 proposal in 2001. And the 2001 proposal there on that  
18 date is very significant because it was not just  
19 focused on electronic manifest reform, but the --  
20 also, the whole idea of the manifest form itself.

21 What I haven't told you -- this form  
22 that I have described to you as the manifest form  
23 looks pretty simple today. But in 1995, or even 2004,  
24 it wasn't that simple. We call it the uniform

1 manifest because it was adopted with the joint  
2 authority of DOT and EPA.

3 In 1981, when the manifest requirements  
4 were published, there wasn't a uniform form. It was  
5 just narrative requirements. You should describe  
6 shipments this way. Then people said, no, we need to  
7 have a form. States and -- initially said let's get  
8 together.

9 DOT -- we got together in 1984 and  
10 published this first form. And we call it the uniform  
11 manifest, but it's a misnomer because it wasn't really  
12 uniform. The left side of the form was the required  
13 federal requirements. And the right side of the form  
14 in the old form was what we called the state-optional  
15 fields.

16 What EPA and DOT did to accommodate our  
17 state partners because they had their own priorities  
18 at the time, we said that if you're a state and you  
19 want a manifest form, you can choose among 11 optional  
20 fields, incorporate that into your manifest, and we'll  
21 allow that. We'll consent to allow you to use these  
22 11 optional fields.

23 States could pick and choose among  
24 those 11 optional fields. And they would print their

1 own manifest and require handlers moving waste from or  
2 into their states to use their state manifest.

3 We ended up with 20 different flavors  
4 of this form because states would choose among  
5 different optional fields, publish the manifest under  
6 their own letterhead and require you to buy it from  
7 them if you were going to ship waste into their  
8 states. It got a little complicated, and it wasn't  
9 really the uniform manifest. But it was good  
10 intention.

11 It actually didn't occur until 2005  
12 that we announced this one standard form without  
13 optional fields. That began with the 2001 proposed  
14 rule where we proposed both standardizing the form  
15 because you can imagine it would be a real pain to try  
16 to do electronic manifest with 20 different manifests.

17 As a precursor to electronic manifests,  
18 it was very important to standardize the form. We  
19 accomplished that in 2005. A lot of folks thought it  
20 was going to be total chaos when we pulled the plug on  
21 the old manifest forms and required the new one to be  
22 used and it had a whole new community of printers out  
23 there authorized to print them. But in fact, it  
24 actually went off very smoothly.



1           As a result, I was able to keep my job  
2 and continue working on the effort. But that was  
3 actually quite a significant reform of the manifest  
4 just in 2005.

5           But we proposed in 2001 a decentralized  
6 approach electronic manifesting whereby EPA would just  
7 publish standards and allow private entities,  
8 facilities, IT firms, what have you, to develop their  
9 electronic manifest adhering to EPA standards. We had  
10 no idea at that time that we would be as ambitious as  
11 purporting to have a national -- one national EPA  
12 system hosted by our own -- by EPA. That was not part  
13 of the plan in 2001.

14           But what happened in 2004, after we  
15 proposed that decentralized approach with our -- us  
16 adopting standards for private entities, we got some  
17 very critical comments in response to that proposal  
18 from the regulator community as well as the  
19 enforcement community and others. What they told us  
20 was they didn't think that the -- having a multitude  
21 of private systems would be cost-effective. Some  
22 folks worried that it would just be adopted by a few  
23 of the very, very large facilities, and the rest would  
24 be kind of left out because they would choose to

1 corner it for themselves. We wouldn't have broad use  
2 of the system because it would just be the province of  
3 a few large facilities that could afford to build  
4 their boutique systems. That was one comment we  
5 heard.

6 We heard the comment that it was not  
7 going to be interoperable because, you know, manifests  
8 -- shipments move between handlers in various states.  
9 So there's got to be uniformity that works nice with a  
10 form. However, it could be the same form and sign off  
11 on it. But if you had electric manifest and software  
12 and they aren't interoperable, it's going to be very  
13 hard for a generator in one state to ship twice to  
14 another state and have those forms become conversant  
15 with each other if you have different proprietary  
16 software in the mix. So people said that's not really  
17 going to work to have these conflicting private  
18 systems out there. We want interoperability.

19 And the big stakeholder in this whole  
20 issue in the early 2000s was the enforcement  
21 community. The Department of Justice became very  
22 attuned to e-Manifest and other electronic reporting  
23 measures. They became very concerned that they would  
24 not be able to enforce e-Manifest if they had a

1 multitude of different private boutique systems with  
2 proprietary software. How would they ever get their  
3 hands around it and bring an enforcement case?

4 They made some very strong comments  
5 adverse to the idea of numerous private systems and  
6 said, you know -- it was the kind of convergence we  
7 heard in 2004 -- maybe it would be better if we just  
8 had one national system, whether EPA or the private  
9 sector developed it, it would be nice to have one  
10 system that was consistent and secure that would do  
11 all this and do it right and make all these  
12 stakeholder interests and enforcement interests happy.

13 That's what we heard at the 2004  
14 national meeting, a two-day meeting here in D.C. And  
15 coming out of that meeting, we heard two important  
16 points. One, there was a consensus building for there  
17 to be one national system, not a multitude of private  
18 systems. And we also heard the user community, the  
19 members of industry that handle hazardous waste,  
20 saying we're actually willing to pay for this. If you  
21 can find a way to develop this system on a national  
22 level, we're willing to pay user fees to fund it. And  
23 that was very important finding for that meeting --  
24 consensus for a national system, and the user

1 community said we're willing to pay for it if you can  
2 do it right.

3 We took that back to management. We  
4 issued a notice in April of 2006 indicating there  
5 might be a change of direction here. Our proposed  
6 approach seemed to be discredited during the comment  
7 period, a growing foment for a national system.

8 We proposed in 2006 to put that out  
9 there as a new program direction, and we got pretty  
10 favorable comments for that. And we had a second  
11 notice 2008 talking about some of the public access  
12 and CBI issues.

13 And then the Congress took note of  
14 that. There was effort to get Congress involved  
15 because the thought of we're going to have a fee-  
16 supported system, we needed to have some fee  
17 authority, and our legislation enabled us to do so.  
18 And I have to give credit to Senator Thune and his  
19 staff for taking the ball, taking the initiative to  
20 actually bring the effort together on the congress  
21 side to actually begin the development of some e-  
22 Manifest legislation to make that happen.

23 From 2006 to 2012, we at EPA were  
24 involved in some initial workgroup efforts to develop

1 a regulatory regime, knowing that we needed to be  
2 consistent with what Congress was doing. So we were  
3 going back and forth the Hill in various iterations of  
4 e-Manifest bills. There was a bill in 2006, the first  
5 Thune-sponsored e-Manifest bill. There was a bill in  
6 2008 and a bill in 2011, which oddly became the e-  
7 Manifest Act.

8           There was a lot of back-and-forth  
9 between stakeholders, EPA, and the Hill in trying to  
10 flush out the bill that would do the job. And the  
11 funny thing is that the draft bills -- at least not  
12 funny; it's kind of unfortunate it didn't work out  
13 this way -- the draft bills that we responded to  
14 initially right up until the last month of the  
15 legislative development were focused on a public-  
16 private partnership approach to e-Manifest known as  
17 share in savings, or share in revenue.

18           And the idea of the concept that the  
19 drafters had in mind in the initial Senate bills --  
20 and we did it support as the EPA as well -- was that  
21 the IT vendor would actually front the money to  
22 develop the system -- build the system according to  
23 the specs developed by the regulator community and we.  
24 But they actually would front the development cost.

1 And then when we actually had a user fee system, they  
2 would recover a portion of their development cost with  
3 each month of revenue collections.

4 It was kind of a systematic approach  
5 where the vendor would pay for the system and over  
6 time, say five years, the first five years of the  
7 operating system, a part of each manifest fee would be  
8 paying back the vendor for their development costs.

9 It was try to -- a way to try to circumvent the  
10 vagaries and uncertainties of the federal budget  
11 process.

12 That was in the bill for the first --  
13 2006 bill, the 2008 bill, and the early draft of the  
14 2011 bill. But unfortunately -- actually, that's in  
15 it as well. This was actually based on a pilot  
16 program that was developed in the e-gov after 2002.  
17 The share in savings program actually had a source in  
18 the e-gov Act that was actually a program that was run  
19 out of GSA. We worked with them for some time trying  
20 to develop a contract under their blanket purchase  
21 agreements to actually get this up and running in  
22 2005.

23 Unfortunately, that pilot program  
24 expired in 2005 under the e-gov act, and it wasn't

1 renewed. That's how we went back to the drawing board  
2 in 2006 to try to come up with a way to do it on a  
3 standalone basis with the manifest.

4 We were all hopeful. I know Dave Case  
5 and the ETC (ph) were pushing the idea of that it  
6 would be a very good thing to have a vendor-funded  
7 system rather than having to rely upon the vagaries of  
8 the -- caprices of the appropriators.

9 But unfortunately, as the -- when the  
10 Act was finally enacted in 2011, that feature was  
11 lost. The appropriators prevailed upon the drafters  
12 when they -- upon the enact of the bill in the wee  
13 hours of September 22nd of 2011 to insert into the  
14 bill in a rather hasty way some standard appropriation  
15 language.

16 That pretty much gives you, I think,  
17 what I think are the main highlights of the  
18 legislative and regulatory developments and outreach  
19 efforts that led up to the development of e-Manifest.  
20 When you get over to 2012 pointing down, you see the  
21 Hazardous Waste Manifest Establishment Act was signed  
22 into law in October of 2012 after there was this late  
23 September development where they took out most of the  
24 share in revenue partnership agreement and inserted

1 appropriation language instead, leaving us pretty much  
2 at the mercy of appropriators to fund the development  
3 of the system. And that's been a sort of a sore in  
4 our sides all along.

5 Any questions so far on this initial  
6 history of how the manifest works, what its sources of  
7 authority are, and how we got to the e-Manifest act?  
8 I tried to get all that in one concise bit of  
9 material. I hope that was at the right level for all  
10 of you to digest.

11 **MR. ROBERT KLOPP:** Just one quick  
12 question, and that is, you know, you've mentioned the  
13 --

14 **MR. BARNES JOHNSON:** Yeah. Hey,  
15 Robert, could you just identify yourself when I --  
16 when we talk through the speakers because there are  
17 transcripts being made. It'll help with that.

18 **MR. ROBERT KLOPP:** Yeah.

19 **MR. BARNES JOHNSON:** Thanks.

20 **MR. ROBERT KLOPP:** No worries.

21 **MR. BARNES JOHNSON:** Yeah.

22 **MR. ROBERT KLOPP:** So I'm Rob Klopp. I  
23 guess I wondered. You know, there's the obvious  
24 constituents of the generators and the transporters



1 and the people that dispose of this stuff. You've  
2 also mentioned the enforcement community.

3 I just wondered who are the other sort  
4 of players in this besides those three. And you  
5 mentioned an enforcement DOJ. I wonder if there's  
6 other folks involved in enforcement. You know, I  
7 guess I imagine the states are involved and stuff.

8 **MR. RICHARD LASHIER:** Yeah.

9 **MR. ROBERT KLOPP:** So I just wondered  
10 who are sort of all of the --

11 **MR. RICHARD LASHIER:** Okay.

12 **MR. ROBERT KLOPP:** -- constituent  
13 parties that have a stake in this.

14 **MR. RICHARD LASHIER:** You're right to  
15 raise that point. And you're right. I glossed over  
16 the state role probably to -- you know, to my limited  
17 way.

18 I mean, yes, there are federal  
19 enforcement officials both at our EPA enforcement  
20 program, and they often refer cases to DOJ when there  
21 are more prominent cases, particularly for the  
22 criminal side because there actually authority to  
23 bring criminal prosecutions for willful violations of  
24 RCRA, including such things as not having a manifest

1 for a shipment that was a hazardous waste. But maybe  
2 you're trying to cover up they're shipping hazardous  
3 waste, so you neglect to put a manifest out and it  
4 goes to a solid waste landfill instead. That might be  
5 a criminal act if it was done willfully.

6 Yes, we have that federal role. But  
7 from -- by and large, most of the implementation and  
8 enforcement effort with the RCRA, including the  
9 manifest, is conducted by authorized states.

10 And I should let you know, Robert, that  
11 the -- RCRA is what we call a delegated program. Most  
12 of the environmental programs that were developed in  
13 the '70s by Congress like the Air Act program, the  
14 Clean Water Act program, and RCRA had these delegation  
15 features.

16 The idea is we -- our federal  
17 regulations, we're providing the basic floor level of  
18 authority that has to be sort of the floor level of  
19 regulatory standards. Then we say to the states you  
20 have to come in within a certain period of time,  
21 modify your state regulations, make them consistent  
22 with ours. And we'll review your regulations, be sure  
23 you have adequate enforcement authority. And if you  
24 do all that, we'll authorize your program and allow

1 you to implement it and enforce it instead of us.

2 For the most part, once we authorize a  
3 program for RCRA requirements, including the manifest,  
4 EPA, more or less, steps aside. And only in some  
5 really unusual cases where they need support from our  
6 federal enforcement program where there's a need to  
7 bring DOJ in for a criminal prosecution, in most  
8 cases, the EPA stays out of the picture and it becomes  
9 a feature of the authorized state programs to put that  
10 in force.

11 And in fact, the permits we talked  
12 about when we say the waste facilities have permits,  
13 those are permits that are issued by states. They're  
14 state-authorized permits under state law using our  
15 guidance, of course. But they really are state  
16 programs.

17 EPA writes regulations to establish the  
18 basic floor level of regulatory oversight, and we  
19 require the states to come in and develop their own  
20 counterparts to our federal rules. They get  
21 authorized, and they basically run the show after  
22 that.

23 The major role of enforcement with the  
24 manifest is the state-authorized programs. And many

1 of these state programs -- there used to be more  
2 states that actually cut the manifest copies. It got  
3 to be too expensive for states to support these very  
4 comprehensive tracking programs.

5 But about 20 states to require copies  
6 of manifests be mailed to them. Some require the  
7 generator copy. Some require just the designated  
8 facility copy. Others require both. And they  
9 actually compare the two, and they key in the data.

10 Many of the state programs, they  
11 actually charge a tax or a fee for bringing waste into  
12 the state or generating in the state. And they use  
13 these tracking systems that they operate at the state  
14 side to determine how much waste is being brought into  
15 their state so they can -- sends in a bill to those  
16 facilities responsible for the appropriate fees.

17 The states rely upon manifest data for  
18 revenue generation for their waste management fees as  
19 well as for program oversight enforcement effects. I  
20 don't know what -- maybe other state folks can chime  
21 in and state if they wish about their role in using  
22 manifest data. But it definitely is a partnership  
23 program. The EPA and the states together implemented  
24 RCRA. But EPA works on the front end, for the most

1 part, and then we let the authorized states handle it  
2 from thereon. They're -- they become the prominent  
3 actors.

4 Yes?

5 **MR. JOHN RIDGWAY:** John Ridgway from  
6 Department of Ecology. Adding to that, the states  
7 negotiate every two years with EPA for how we're going  
8 to carry that out. And that includes financial  
9 compensation to do that.

10 Although we're authorized and delegated  
11 to do these things, there are limits to what we do,  
12 and that'll be part of the conversation --

13 **MR. RICHARD LASHIER:** Yeah.

14 **MR. JOHN RIDGWAY:** -- I'm sure.

15 **MR. RICHARD LASHIER:** EPA provides  
16 grant money to the states to help support their  
17 authorized program. They tell us it's never enough.  
18 And of course, the problem with the funding, it's been  
19 pretty much a flatline situation with the EPA grants  
20 over the years. And states are asked -- oftentimes  
21 asked to do more with the same amount of money or  
22 less. So as I said -- but we do try to provide some  
23 matching funds to grants to the states to help them  
24 with their implementation of their programs.

1           And the manifest is a little -- I don't  
2 want to get in too much detail. But the manifest is a  
3 little unique, too. You normally would say the states  
4 could be more stringent with their authorized  
5 programs. They have to be at least consistent at the  
6 floor level with our floor level programs. And they  
7 can be more stringent or broader in scope.

8           But the manifest is actually kind of an  
9 exception because we are regulating jointly with DOT  
10 on shipping papers and DOT has preemption authority on  
11 the use of shipping papers. Actually, the e-Manifest  
12 Act gave EPA authority to be actually almost  
13 preemptive on the e-Manifest.

14           The manifest is actually a uniform  
15 requirement. While the optional fields occurred over  
16 the years because we consented to that and DOT  
17 consented to it and we actually took away the optional  
18 fields, we basically were, more or less, closing the  
19 door on that era and saying the manifest needs to be  
20 consistent across all states. And that's how it's --  
21 it operates.

22           It's kind of unique among RCRA  
23 requirements in the -- because of the involvement with  
24 DOT and shipping papers. There is this almost

1 preemptive authority with the manifest on consistency,  
2 which doesn't always apply to other RCRA requirements.  
3 States have a lot more latitude in other areas to do -  
4 - to go beyond the RCRA requirements and do their own  
5 thing, but not with the manifest.

6 Okay. I've probably said more than you  
7 want to hear on that point.

8 **MR. BARNES JOHNSON:** More questions for  
9 Rich?

10 Cynthia?

11 **MS. CYNTHIA WALCZAK:** Cindy, MPS Group.  
12 Cindy Walczak.

13 To what extent has EPA engaged DOT?  
14 And is DOT willing and able to accommodate a paperless  
15 system? And that would require changes in their  
16 regulations.

17 **MR. RICHARD LASHIER:** Yeah.

18 **MS. CYNTHIA WALCZAK:** And are they  
19 willing and able to do that?

20 **MR. RICHARD LASHIER:** That has been a  
21 tough nut to crack. Now, as far as their involvement,  
22 yes, they have been involved. They sit in our  
23 workgroups. We had a workgroup meeting just last  
24 week. And you know, DOT has a representative on our

1 fee rule workgroup. They've been on the other One  
2 Year Rule workgroup as well and the manifest rules.  
3 They're there on the workgroup.

4 And you know, we meet with them  
5 periodically. You know, Barnes had a meet with their  
6 associate administrator last year to talk about our  
7 mutual efforts on electronic manifest and their  
8 electronic shipping paper.

9 They did have legislation a few years  
10 ago that required them to do some demonstration pilots  
11 of electronic shipping papers. And that's been a  
12 project that's been in the running for some time now.  
13 I think there were some reports supposed to come out  
14 of that. I said that would be the one time we heard  
15 that DOT might publish a finding that they might be  
16 moving in the direction of electronic shipping papers.

17 But on the DOT side, they weren't --  
18 they don't see themselves as being in the role of  
19 setting up a DOT-hosted national shipping paper. They  
20 view it as being something that the various modes of  
21 transportation would do on their own. They already  
22 have electronic weigh bill system for the rail  
23 industry. I'm sure the air transports folks are doing  
24 the same thing on the air shipment of hazardous



1 materials. And they expect the highway folks to  
2 actually take the lead role in developing whatever  
3 shipping requirements apply to electronic shipping  
4 papers on the highway side.

5 DOT is purporting to take more of a  
6 passive role but supporting the idea of it going  
7 forward but not really, you know, stepping in to say  
8 we're going to develop a system.

9 We've had discussion with them about  
10 that. And unfortunately, it still is the requirement  
11 that you have to carry one piece of paper on the truck  
12 even with electronic manifesting. You're going to  
13 have to provide a print of a document that can fit in  
14 the cab department so that when -- if a truck rolls  
15 over, the emergency responder under DOT rules can go  
16 to that little pocket in the cab of the vehicle and  
17 find that shipping paper and know what the -- what  
18 they're dealing with.

19 There still is not the full trust that  
20 they can -- that the communications devices are  
21 consistent enough that the highway patrol in one  
22 state, a county sheriff, any county in this state  
23 would actually have the ability to read electronic  
24 transmissions from truck transponders and the like.

1 I think it's -- I think technology  
2 eventually will solve the problem when there is a more  
3 universal mainstream way for transponders and others  
4 to communicate with different responders at the  
5 county, state, and federal level. But right now, I  
6 think people say that the paper is still the common  
7 denominator that these, you know, rural police  
8 agencies want to see when they go to respond to a  
9 site.

10 But it creates a little complication  
11 for us. One of the constraints is that we still have  
12 to deal with at least one piece of paper to mass-  
13 satisfy DOT until they change their requirement. And  
14 they indicate they might be leaning that way, but who  
15 knows when the pilot demonstrations will be over and  
16 what the -- what recommendations they actually will  
17 make and when to actually eliminate the paper shipping  
18 document.

19 Do you know anything more about that,  
20 Cathy? You've been nodding over --

21 **MS. CATHERINE MCCORD:** (Off mic - not  
22 transcribed).

23 **MR. RICHARD LASHIER:** Right.

24 **MR. BARNES JOHNSON:** Okay. Let me do a

1 little bit of administration. So would -- could --  
2 this is not the time for public comment. But --

3 **MR. RICHARD LASHIER:** Okay. I'm sorry.

4 **MR. BARNES JOHNSON:** -- could you  
5 please come up to the speaker and just talk into the  
6 speaker and give your name and your affiliation,  
7 please, so that we have that for the record. Sorry.

8 **MR. RICHARD LASHIER:** I --

9 **MR. BARNES JOHNSON:** Yeah, just hit the  
10 button there.

11 **MS. CATHERINE MCCORD:** I'm Catherine  
12 McCord with Heritage-Crystal Clean. We're primarily a  
13 collector of waste, and then we give hazardous waste  
14 to other parties to --

15 **MR. BARNES JOHNSON:** Yeah.

16 **MS. CATHERINE MCCORD:** -- for  
17 management.

18 **MR. BARNES JOHNSON:** Okay. Thanks,  
19 Catherine.

20 **MR. RICHARD LASHIER:** Okay. Yeah, I'm  
21 sorry I introduced that complexity by noticing Cathy.  
22 She's been working in this area for years.

23 **MR. BARNES JOHNSON:** Yes. Yeah.

24 **MR. RICHARD LASHIER:** I saw her

1 nodding. I thought maybe she had some inside --

2 **MR. BARNES JOHNSON:** Yeah. No.

3 **MR. RICHARD LASHIER:** -- innovation,  
4 though --

5 **MR. BARNES JOHNSON:** Cathy is somebody  
6 we work with on a number of different issues. And we  
7 will have time for engagement with the public  
8 tomorrow. But --

9 **MR. RICHARD LASHIER:** Okay. All right.

10 **MR. BARNES JOHNSON:** No problem.

11 **MR. RICHARD LASHIER:** Thank you, Cathy.

12 Any other questions before I move on to  
13 talk about the e-Manifest Act in more detail?

14 Hearing none, we'll proceed. All  
15 right.

16 **MR. BARNES JOHNSON:** Okay.

17 **MR. RICHARD LASHIER:** Here we are now,  
18 October 5th, 2012. President Obama signs the e-  
19 Manifest Establishment Act into law authorizing the  
20 EPA to use the national electronic manifest system.  
21 This is one of the very few substantive bills that  
22 actually passed in the 112th Congress.

23 And remember looking at the records of  
24 codified acts that came out during that period of

1 time. This was a period, of course, gridlock. We've  
2 had gridlock for years in Congress. There wasn't much  
3 getting issued. But this was one of the things that  
4 actually had bipartisan support, and it passed by  
5 unanimous consent in the Senate.

6 And then the -- for other things that  
7 were passing during that time in the Congress were  
8 things naming post offices and federal courthouses.  
9 And that was about it. So this was actually one of  
10 the few substantive bills that actually came out of  
11 the 112th Congress during that era of gridlock.

12 And the key features of the act, the e-  
13 Manifest Act extends the operation of e-Manifest to  
14 all federally and state-regulated waste requiring  
15 manifest. Here's that partnership theme again with  
16 EPA and the states.

17 Now, with the manifest formed, we  
18 already told states they could use the federal  
19 manifest form for their additional what we call state-  
20 regulated wastes. States oftentimes will add  
21 additional waste beyond the listed waste and the  
22 federal hazardous waste lists. They might regulate  
23 used oil. They might regulate small generator waste  
24 down to levels that we would not regulated, things of

1 that ilk.

2           There's a broader coverage in many  
3 cases to state programs than what you see in the  
4 federal regulations. So that additional state  
5 coverage, or that broader-in-scope coverage or state-  
6 regulated waste coverage, we've already said they can  
7 use the manifest for those state wastes because we're  
8 trying to avoid having states say you've got to use  
9 our manifest now because EPA doesn't have one for our  
10 state-regulated waste.

11           For years, we've said go ahead, states,  
12 use the federal manifest for your state waste. And  
13 Congress picked up on that when they wrote the e-  
14 Manifest Act and said that, okay, for purpose of e-  
15 Manifest not only for the federal RCRA waste, but  
16 states that require a manifest to accompany their own  
17 state-regulated waste, those wastes are also eligible.  
18 Those manifests shall also be included in e-Manifest.  
19 So the scope extends to the federal waste as well as  
20 the state waste that require tracking by a hazardous  
21 waste manifest.

22           Other key thought to keep in mind about  
23 the e-Manifest Act is that it is not a mandate to use  
24 electronic manifests. Electronic manifests become an

1 option. We hope it's an attractive option because  
2 it's more efficient. But Congress said that if folks  
3 still want to use paper form, they're entitled. Paper  
4 forms will still be out there.

5 And I guess the worry was that small  
6 businesses and others might find it too burdensome to  
7 be required to get into the electronic fold. So at  
8 least under the act, paper manifests and electronic  
9 manifests will co-exist.

10 We have to develop in our IT system a  
11 way to process not only the electronic manifests that  
12 will be coming in fairly routinely, but also have a  
13 way to process the paper manifests much in the way the  
14 states are doing now. When they collect manifest  
15 copies, somebody has to manually key those into their  
16 system.

17 Now for the first time, EPA will become  
18 the hub for the collection of these manifests. We'll  
19 share the data with the states, but the thought is  
20 that an electronic paper side -- system will be set up  
21 so that we will centrally collect the data from all  
22 these manifests -- paper and electronic.

23 Okay. EPA is authorized under the Act  
24 to collect and determine reasonable user fees that are

1 necessary to defray the costs of developing and  
2 operating the system. Unlike other programs, fee  
3 programs where Congress actually legislates the amount  
4 of the fees -- we look at some of the pesticide  
5 programs, others, patents, and the things of that  
6 nature -- Congress actual get -- will actually  
7 legislate the amount of the fees for a two-year or a  
8 five-year cycle. Then there will be another bill two  
9 years or five years later. This -- these are the fees  
10 now prescribed by Congress.

11 Ours are not like that. Congress  
12 delegated to EPA the authority to determine what fees  
13 are necessary to recover our program development and  
14 operating costs. So there's a lot of discussion to  
15 EPA to determine those reasonable fees, and that is  
16 the purpose for the -- what we call the e-Manifest fee  
17 rule, which we're working on now. There's nothing  
18 else I needed to say there.

19 We collect those user fees, and it  
20 actually requires us to deposit those user fees into a  
21 special system fund. It's now called the M-3 account.  
22 It has its own name in the budget documents. But when  
23 you collect those manifest fees, they will go into a  
24 special fund for the deposit of e-Manifest revenue



1 collections, okay?

2 Other important point on the e-Manifest  
3 Act was the idea of consistent implementation. e-  
4 Manifest -- EPA must establish a uniform date when the  
5 e-Manifest will be effective in all states and when  
6 the user fees will be applicable in all states.

7 And we saw -- you'll see in the One  
8 Year Rule we actually embellished on that a bit of  
9 what that means. But the point is every state must  
10 adopt the e-Manifest. They can't say, no, we want to  
11 use paper in Oregon, we want to use paper in West  
12 Virginia. Everybody must respect the validity of  
13 electronic manifest. There's no discretion by the  
14 states to be more stringent that think that paper is  
15 better.

16 Now we have to require -- get their  
17 authorized program updated to adopt our electronic  
18 manifest. And they have to respect the validity of  
19 the e-Manifest format that we designate as the uniform  
20 electronic format as well as the signature methods.

21 Some states have their own statutes on  
22 electronic signatures. We don't -- we can't have a  
23 state come by and say, well, in this state, you have  
24 to use a digital signature, so your manifest

1 signatures aren't going to be valid in this state.  
2 No, there will be an electronic signature method  
3 prescribed for electronic manifest. We'll -- we're  
4 testing those now. We'll develop those. But the idea  
5 is that's going to be part of the federal system, the  
6 electronic signature as well, so that there's that  
7 consistency.

8 Uniformity is important. In fact,  
9 Congress went so far as to say that, you know, in the  
10 event that the states aren't able to or willing to  
11 adopt the e-Manifest right off the get-go, that it  
12 goes into effect federally under EPA authority on the  
13 day we announced the effective date. That's an  
14 unusual feature for RCRA.

15 Typically, when we adopt a regulation,  
16 it doesn't go into effect in the authorized states  
17 until they pick it up under state law. But Congress  
18 does not want to have a situation where the states can  
19 basically veto the program by inaction. And they only  
20 did this one other time back in the '80s when they had  
21 a corrective action land disposal requirements. They  
22 said, okay, we're going to call these federal  
23 requirements, and they go into effect federally until  
24 the states get authorized.

1           So like that, e-Manifest will go into  
2 effect immediately. Then the states will then take it  
3 from us by getting authorized as opposed to it just  
4 sitting out there in limbo until they do so. That's a  
5 fairly significant development in the Act to have that  
6 federal program in place until the states get  
7 authorized. But it must be uniform.

8           Of course, you know the EPA was  
9 required to establish a nine-member advisory board.  
10 Otherwise, you wouldn't be here today. And that's  
11 what we're here for, to sit as the e-Manifest advisory  
12 committee under FACA auspices. Since you were there,  
13 their mandate is to make recommendations to EPA on the  
14 performance of the system, and we have to consult with  
15 you on the question of user fees as well so we  
16 consider the user fees adequacy and -- of the user  
17 fees to be part of that mandate as well for your  
18 consideration.

19           Yes?

20           **MR. ROBERT KLOPP:** So is the intent of  
21 the user fees to cover all the costs of the program,  
22 including the development, once you start collecting  
23 it, so --

24           **MR. RICHARD LASHIER:** Yes.

1                   **MR. ROBERT KLOPP:** -- to get you out of  
2 the appropriations mess you opened with?

3                   **MR. RICHARD LASHIER:** In part, get this  
4 out of the appropriation. We are required under user  
5 fee authority under the Circular 825 and other federal  
6 budget guidance to operate our user fees for full cost  
7 recovery. All costs associated with both developing  
8 the system, managing it, the regulation development  
9 side of it, the IT development of it, the operations  
10 and maintenance of it must be -- all of that must be  
11 accounted for and recovered by user fees.

12                   A big part of the user fee regulation  
13 was to lay out for folks so they understood what we  
14 saw as being the program cost that we recover. And  
15 our folks in our budget always keep telling us full  
16 cost recovery, don't let anything slip through the  
17 cracks. That's an important issue but doesn't  
18 entirely get us out of the appropriations imbroglio  
19 because we have to then go back to Congress each year  
20 and saying we collected \$100 million. Can we spend  
21 it?

22                   That's unfortunate, though, the dilemma  
23 we're going to have is that -- whereas the earlier  
24 bills would have said money is there, EPA can spend it

1 without further appropriation. That feature was lost  
2 when we no longer have the -- sort of the automatic  
3 nature of spending the money as it comes in. We have  
4 to actually get Congress every year to appropriate  
5 what we can spend.

6 Now, the lawyers tell us there are  
7 probably ways they could try to make that authority  
8 for spending more automatic rather than saying that  
9 Congress will authorize us to spend \$37 million but no  
10 more this year because there's ways you can write the  
11 appropriations bill language so it says that such  
12 funds as they accrue in the M-3 fund shall be spent by  
13 EPA for allowable program costs. We're hoping it  
14 might be -- actually unfold that way.

15 But Congress, they can be tricky. They  
16 don't particularly like EPA when it comes to programs  
17 and spending authority. They might be of the nature  
18 to say we're going to tell you how much to spend to  
19 the dollar, and you can go over that.

20 That's one of the things we're going to  
21 have to work out -- the spending authority, whether  
22 we're going to have some more blanket type of spending  
23 authority where they give us the authority to spend  
24 the money that accrues, or whether it's going to be

1 year by year, dollar by dollar -- permission from  
2 Congress to spend the money.

3 Good point. I'm glad you raised that,  
4 Robert.

5 Any other questions about that?

6 Okay. In addition to the Advisory  
7 Board, the Act also -- when I talked about the  
8 contract we would let to develop the system, that  
9 includes some measures of what they call a successful  
10 system performance. And things that are included in  
11 the bill and -- in terms of measures of performance  
12 would be, to the extent that the program that meets  
13 the needs of the user community.

14 Again, this has been an effort jointly  
15 with the user community to have the legislation  
16 developed. We confer with them frequently during our  
17 outreach efforts. We want this program to actually  
18 meet their needs. We want it -- something that the  
19 user community, regulated industry in the states will  
20 actually want to use. We don't want to appear to be  
21 forcing it down their throats.

22 We've been talking to them at length  
23 over the years to make sure that we are taking the  
24 right steps, implementing the right measures and the

1 right kind of systems so they will find it attractive  
2 and convenient to use rather than just being one of  
3 those things where you go off in a dark hole for three  
4 years and say here it is, you know. That doesn't seem  
5 to ever work well when the government agency sits in  
6 isolation for years and come back with the system. It  
7 tends to be something that people have not always  
8 embraced. We're trying to keep those lines of  
9 communication open and make it something that people  
10 will want to use.

11 The statute also says that once it  
12 tracks sufficient user participation to be basically  
13 viable economically, ideas that people are going to be  
14 paying the user fees to pay the operating costs. We  
15 want there to be enough use -- participation in the  
16 system and electronic manifest so that it becomes a  
17 self-sustaining program that the fees and the  
18 operation of e-Manifest match well enough that we  
19 don't have to be -- I guess the point, Robert, is we  
20 don't want to be requesting new money from Congress  
21 where we have to go in and say we actually needed 50  
22 million new dollars this year to run e-Manifest.

23 We want to essentially say the money's  
24 there. We just want to spend it. And the money, you

1 know, it's what we need to operate the program because  
2 we set the fees that way.

3 We hope it's a good match. So that's  
4 what we're trying to accomplish. We know we have to  
5 get permission, but we're hoping it won't be an  
6 inordinate burden to do so if we can actually spend  
7 the money that's there rather than asking the public  
8 to chip in more and more.

9 I think that's probably -- yeah, I  
10 mentioned already we lost the share in revenue  
11 features when the Act passed, which would have been  
12 probably a smoother way to get it built quickly with  
13 vendor participation in the financing and that vendor  
14 pay it back. But that went away with the final bill.  
15 So now we're back to Congressional appropriations.

16 I also wanted to point out some of the  
17 other constraints under the act. Certainly, it was a  
18 breath of fresh air to actually get the bill actually  
19 enacted, to have a mandate, to have teams in place, to  
20 actually begin the development of the system,  
21 developing the rules that actually were for real  
22 instead of just a practice session. But there  
23 actually were some constraints that resulted in the  
24 way the Act was actually drafted and enacted.



1 First of all, it's important to point  
2 out, too, that the funding relations that actually  
3 exist in the final act are a hodgepodge of some of the  
4 share in revenue vestiges and traditional  
5 appropriations language. There are residues that  
6 remain in the Act because Congress -- again, this  
7 happened at the 11th hour just before they vacated  
8 Washington in September of 2012. They made a hurried  
9 effort to modify the statute to include this  
10 appropriations figure.

11 They left some language behind in the  
12 Act that was more consistent with the vendor funding  
13 approach, or the shared revenue approach. So you had  
14 some language that's kind of confusing because it  
15 still talks about us paying back the vendor out of the  
16 monthly revenues for their contribution when, in fact,  
17 Congress said, no, there won't be a contribution.  
18 You're going to have to get the money from us.

19 There's some confusing language there  
20 that residues of the shared revenue program that  
21 remain behind even after they included the  
22 appropriations language gave us quite a chore in the  
23 first few months of the program trying to figure it  
24 all out, what we could or couldn't do. Could we

1 actually do a share in revenue program because there  
2 was that language saying pay back the vendor? People  
3 decided, no, we couldn't. But that was one of the  
4 confusing facets of how they adopted the sausage that  
5 became the e-Manifest Act.

6 Also, language in the Act requires EPA  
7 to own the IT system, which is itself another vestige  
8 of some of the earlier draft bills that would require  
9 IT vendor funding. When they had the earlier bills  
10 with the IT vendor kicking in the funding and getting  
11 paid back, essentially, they were building a system on  
12 their dime. We were going to buy it from them over  
13 several years when we got the user fee revenues.

14 Congress felt a need when they had that  
15 vendor funding assist approach to say -- make it  
16 clear, saying EPA, even though you are paying for the  
17 system on installments, buying it back from the vendor  
18 who put in the initial contribution, it's a government  
19 system. It's a federally owned system.

20 That was the reason why that was put in  
21 there, not to, you know, for all times say only EPA  
22 can develop and own systems. But it was still another  
23 vestige of the vendor-funding approach. They wanted  
24 to clarify that, despite how it was paid for, EPA

1 owned the system.

2 But we still now are left to having to  
3 figure out what does it mean to be the owner. Can we  
4 lease things? Can we buy software with licenses?  
5 What does ownership involve in this area of the IT  
6 development? It does kind of constrain us a little  
7 bit.

8 We're also constrained to collect fees  
9 that are sufficient to offset the development and  
10 operating costs, with only room for a minimal surplus  
11 of revenues. They gave us kind of a very, very tight  
12 accounting chore to do in this effort of setting up  
13 the initial system. They said that we could generate  
14 a surplus of \$2 million over the first three years of  
15 operations.

16 Now, some of the operating projections  
17 we've see, you know, we could be collecting \$30  
18 million or more a year in revenue from this -- from  
19 the system. Whether we're actually going to have the  
20 rigor and precision to come within a \$2 million target  
21 remains to be seen. We will do our darnedest, and  
22 we'll have the financial statements and records to  
23 help support that. But they gave us the authority to  
24 generate a \$2 million surplus, in other words, in the

1 first three years.

2           Fortunately, as we get more experienced  
3 in how many manifests there are and how many revenues  
4 they generate, we should become more precise, not only  
5 become an issue in the first year or two when we're  
6 just basically launching out the system for the first  
7 time, finding out whether we've overshot or undershot  
8 the mark. But it should get better in time as we get  
9 real numbers. Okay. Other constraints.

10           Question?

11           **MR. JOHN RIDGWAY:** Your last comment,  
12 the surplus, is that a total of 2 million over the  
13 three years or no more than 2 million per year?

14           **MR. RICHARD LASHIER:** Well, I don't  
15 want to say I'm certain. But I believe it was meant  
16 to be a total of \$2 million over the three-year  
17 period.

18           But you raise an important question.  
19 Maybe we could interpret it if we need to. Maybe we  
20 could interpret it more broadly. We'll see.

21           But I think they meant a \$2 million  
22 total surplus over the first three years. Otherwise,  
23 they might have been more prescriptive and said 2  
24 million per year. Anyway, we'll see.

1                   Okay. Other constraints. Okay. The  
2 Act wants EPA to be promoting electronic manifest use  
3 developing this IT system for e-Manifest, but it does  
4 allow users to continue to use paper forms if they so  
5 wish. So you have this ongoing tension between the  
6 idea of promoting developing electronic manifests  
7 because we think it's going to be more cost-effective.  
8 It's smart. It's 21st century. Yet some folks  
9 continue to use paper until the cows come home, and  
10 we'll have to deal with it.

11                   There are some efforts underway to see  
12 if we can't propose the idea of maybe at some point  
13 phasing out the paper. That's some of the things  
14 we're looking at with the fee rule. But the  
15 legislative authority seems to be very tolerant of  
16 paper continuing down the years. We hope that it'll  
17 become unattractive enough or expensive enough that  
18 it'll go away.

19                   But it did leave that in there as a  
20 constraint. We have to deal with paper processing.  
21 And that can be some of the most expensive cost in  
22 running the system, is just having to run all that  
23 paper through the manual key-in and data quality issue  
24 -- not a perfect solution, but there it is.

1                   Okay. And of course, the EPA is  
2                   constrained by an appropriations approach on the Act  
3                   to build e-Manifest with only incremental funding  
4                   supplied only by the appropriators. And this is the  
5                   issue because we have these ideas in mind of what it's  
6                   going to cost to build a total system, but we tend to  
7                   get these installments. We get a little bit here,  
8                   drips and drabs. You know, ideally, we could have the  
9                   system built in three years, but they only give us  
10                  one-fifth of the funding. It can't happen, right?

11                  That's the challenge we face there, is  
12                  getting the appropriations adequate out the outset so  
13                  we could actually get enough of the system built to  
14                  set up a system we could actually begin to run to  
15                  begin to charge fees for so it then becomes self-  
16                  sustaining. But we have to get over that development  
17                  hump in the budget approach of getting the  
18                  appropriators and others to chip in the funds, the  
19                  seed money, upfront adequately to get the system  
20                  built.

21                  Another complication we've had in  
22                  recent years is, again, budget gridlock. It means  
23                  that, more often than not, we're operating under  
24                  continuing resolutions. So rather than actually

1 getting a new budget each year tailored to our budget  
2 requests what we think we need, we end up getting last  
3 year's money because that's what passed last year and  
4 that's all we can get in the CR mode.

5 That makes it a little tricky when you  
6 can't change the numbers, you know, kind of left  
7 having to build the system in \$3.67 million  
8 increments. It just seems like it's the way it's been  
9 going lately.

10 Okay. And the final constraint is that  
11 we're required to build a system under the Act in just  
12 three years. There actually was a statutory mandate  
13 of having it done in 2015. But you know that Congress  
14 didn't really give us the money for two years, so we -  
15 - that obviously wasn't going to happen. And we've  
16 had to go back.

17 Barnes had to testify last year to the  
18 authorizers to get -- have them agree that they would  
19 agree to continue to fund the system and extend the  
20 time for us to develop the system, although he faced  
21 some hard questions as to how long it would take and  
22 why we didn't get the system built in 2015 without  
23 money. That seems to be what they're asking. All  
24 right.

1           **MR. RAJ PAUL:** Raj Paul. I have a few  
2 questions. Regarding the use of papers, is that --

3           **MR. BARNES JOHNSON:** Raj, can you just  
4 identify yourself just for the recording?

5           **MR. RAJ PAUL:** Raj Paul.

6           **MR. BARNES JOHNSON:** Thank you.

7           **MR. RAJ PAUL:** Yeah. Regarding the use  
8 of papers, is there a time how long you need to  
9 support it? Or does it talk about how long you need  
10 to support paper forms?

11           **MR. RICHARD LASHIER:** The statute just  
12 says that paper is the option; e-Manifest is an  
13 option.

14           **MR. RAJ PAUL:** So with regards to a  
15 definition for user, a system user, the different  
16 kinds of users to the system, with regards to  
17 collecting fees, do you differentiate between people  
18 using paper forms versus a system?

19                   Or everyone as a user is going to pay a  
20 fee?

21           **MR. RICHARD LASHIER:** The short answer  
22 is yes, but I'll prefer to -- I'll get to that point  
23 in some detail when we talk about the user fee.

24           **MR. RAJ PAUL:** Sure.



1                   **MR. RAJ PAUL:** Thank you.

2                   **MR. RICHARD LASHIER:** It's a  
3 differential fee. You're right.

4                   **MR. RAJ PAUL:** Okay.

5                   **MR. RICHARD LASHIER:** I mean, the  
6 statute gives us the authority. It says that they  
7 have the option of using paper manifest, but it also  
8 says that EPA's regulations can be -- can facilitate  
9 the transition to electronic manifest.

10                                 What we're looking at is facilitate the  
11 transition. Does that give us authority to put a  
12 little more of a hammer on it to mandate things or  
13 phase it out? That's the question we're looking at  
14 now, what that facilitate transition means. Does it  
15 mean we just have to sit back and wait and hope it  
16 happens? Or can we actually try to force the issue?

17                                 Okay. So the act, of course, required  
18 us to develop the system. It also required us --  
19 another provision of the Act said within one year of  
20 enactment, EPA shall issue the authorizing regulations  
21 for electronic manifests.

22                                 Because of that mandate to develop it  
23 within one year, we called it the One Year Rule.  
24 Clever, huh? Okay.

1           Actually, it wasn't quite one year. We  
2 missed by a couple months. We knew -- it should have  
3 been -- if we were actually one year, it would have  
4 been October of 2013. But the regulatory process is  
5 not a rapid thing, and we were able to get it out the  
6 door in February 2014. I don't think anybody really  
7 faulted us too much for missing by those several  
8 months. But it was still a pretty rapid regulation.

9           And in fact, we've been working on the  
10 manifest -- e-Manifest regulation for several years  
11 prior to the statute being enacted because our  
12 assistant administrator at the time had the  
13 forethought to think, you know, this is going to  
14 happen. It takes a couple years to write a proposed  
15 rule and then a final year. We can't be sitting there  
16 waiting for the Act to pass. You guys start cracking  
17 on the rules now.

18           We spent, actually, the several years  
19 from the middle of 2005 on until the Act passed  
20 actually working on proposed rule language, keeping in  
21 touch with the Congress what it was doing so they  
22 would be meshing well. So even though we missed by a  
23 couple months, it actually was a several-year process  
24 to do both the proposed rule, supplemental notices,

1 and get the final rule done in 2014.

2 And what the statute -- what the One  
3 Year Rule does, it basically establishes a legal, in  
4 policy framework, saying that it's -- electronic  
5 manifests are okay to use, that they have the same  
6 validity as paper manifests signed in ink. Basically,  
7 that's the upshot.

8 We had to establish that they're the  
9 legal equivalent of paper manifests when you use them  
10 -- use the format that we supply, follow the -- use  
11 the -- obtain it from the system, submit it to the  
12 system using the requirements that we specify, sign it  
13 with a signature that we require. Do all that, and  
14 the electronic manifest will be the legal equivalent  
15 of a paper manifest. That's what it tries to do,  
16 create that metamorphosis to make that electronic  
17 manifest valid. And it codifies the key provisions of  
18 the Act, touching upon the scope of users and the  
19 scope of manifests eligible to participate.  
20 Basically, consistent with the Act that says that the  
21 users are members of the regulated community required  
22 to use a manifest to track their shipments. It says  
23 the manifests eligible are manifests required under  
24 federal or state law for shipments required to be

1 tracked by a manifest. So it has that broad scope of  
2 users, the broad scope of both federal and state  
3 manifests.

4 It also codifies provisions on the  
5 consistent limitation of electronic manifests in all  
6 the states. We will announce, when the system is  
7 ready, a federal date by which the -- when the e-  
8 Manifest will become operable. And that'll become the  
9 date which electronic manifests become operational and  
10 valid in all states.

11 No state can refuse to adopt that. No  
12 state can require other things to be on those  
13 manifests or other requirements to be imposed that  
14 will be the uniform federal electronic manifest on the  
15 date that we announce. And states will be required to  
16 come in by a certain period of time if they wish to  
17 get their programs authorized so they can then take  
18 over the federal -- take over the enforcement  
19 implementation. But it will go into effect  
20 immediately at the federal level under EPA and DOT  
21 auspices.

22 It also finalizes EPA decisions to  
23 establish the national electronic hazardous waste  
24 manifest system. As I mentioned in the -- talking

1 about the 2000 un-proposed rule, we had a very  
2 different decentralized approach in mind with just  
3 standards and private entities going off on their own  
4 way to develop systems.

5 We had to do a second notice in 2006  
6 saying we've had a change of heart. Everybody wants a  
7 national system. So they see that the One Year Rule  
8 finalized that change of heart decision and announced  
9 that we were, in fact, going to do the national system  
10 at the federal level and announced the policy  
11 decisions on several of the issues related to the use  
12 of electronic manifests.

13 I mean, the key ones there -- at that  
14 time, we said we didn't want folks trying to mix  
15 electronic and paper manifest for the same shipment,  
16 you know, make it simple, all or nothing. If you're  
17 going to do electronic manifest, everybody has to be  
18 involved from the get-go. You can't have it become  
19 paper for part of the transaction, electronic later  
20 on, paper again at the back end. Let's make it  
21 simple. We talked about that.

22 We talked about the paper manifest  
23 being the backup when the system goes down. And if it  
24 happened the system went down, you could acquire a

1 paper manifest to complete the shipment so that waste  
2 wouldn't sit there in limbo, that you could complete a  
3 shipment with a paper form.

4 We talked about the idea that data  
5 can't be claimed to be CBI, or confidential business  
6 information, because, even though initially told us in  
7 no uncertain terms they thought there was some  
8 proprietary information there, particularly the  
9 customer list information, what we found is that over  
10 20 years or more of state implementation of manifest,  
11 the state's been making manifests available to the  
12 public pretty much willy-nilly without concerns about  
13 proprietary data.

14 And so it would not be -- it did not  
15 seem appropriate to us at the time to say no because  
16 we're in the middle of the act. Even though you could  
17 ask the state if they would give it to you, we're  
18 going to say no because we're EPA and we have -- we  
19 think it's somehow CBI -- in fact, the CBI statute say  
20 that if information is available from their resource  
21 legally, then it can't be claimed to be CBI.

22 That was basically our clarification on  
23 that point. Even though we understand the point they  
24 raised about the sensitivity of their own members

1 perhaps snooping on each other obtaining competitive  
2 data -- competitive advantage from being able to  
3 access the data, we, you know, I think we had the  
4 ability to say when we handled at CBI, when the states  
5 give it to you, it's not. We had to be consistent.

6 What we did do is we established a 90-  
7 day safe harbor post-receipt. So when a waste arise  
8 in a facility, for 90 days, the only folks that can  
9 see that data are the people named on the manifest.  
10 So the generator and transporter receiving facility on  
11 that manifest the only ones that can access that data  
12 for the first 90 days. And only after that 90-day  
13 period passed will there be this ability for the  
14 public at large to acquire that data and look at it.

15 And of course, they can also acquire it  
16 when they go to the biannual report. Every two years,  
17 there's a biannual report issued by EPA that talks --  
18 summarizes waste receipt information as well. So they  
19 could get it from there after a couple of years if  
20 they wanted to, you know, look at the larger picture  
21 of the biannual report.

22 Okay. Other policy issues -- let's  
23 see.

24 **MR. JUSTIN WILSON:** Well --

1                   **MR. RICHARD LASHIER:** Yes. Let me --  
2                   sorry, Justin.

3                   **MR. BARNES JOHNSON:** So Rich, I'm just  
4                   mindful of time here.

5                   **MR. RICHARD LASHIER:** Yeah.

6                   **MR. BARNES JOHNSON:** We have 10  
7                   minutes, and we want to make sure that we give the  
8                   committee -- I think --

9                   **MR. RICHARD LASHIER:** This is, you know  
10                  --

11                  **MR. BARNES JOHNSON:** -- let Rich maybe  
12                  get through. Sorry.

13                  **MR. RICHARD LASHIER:** Okay. This is  
14                  the last slide, and then I turn it over for questions  
15                  anyways.

16                  **MR. BARNES JOHNSON:** Great. Excellent.

17                  **MR. RICHARD LASHIER:** So I think we're  
18                  going to be okay.

19                  **MR. BARNES JOHNSON:** Perfect. Perfect.

20                  **MR. RICHARD LASHIER:** So I just wanted  
21                  to point out that that CBI was a big issue, and that's  
22                  how we resolved it and the reasons why we resolved it  
23                  that way.

24                  Of course, the manifest established the



1 national electronic format. So that's part of the  
2 purposes of the One Year Rule, was to say there will  
3 be a national format obtained from the system --  
4 submitted to the system. No other format will  
5 suffice.

6 We also made recommendations on  
7 electronic signature methods. So though they were not  
8 codified as regulatory requirements, we know for a  
9 fact that over the years, particularly with the  
10 enforcement community and DOJ, a big concern they have  
11 had and one of the things we've had to wrestle with is  
12 how to execute a valid electronic signature on these  
13 manifests so that they will be -- they will hold up in  
14 court, particularly for criminal prosecutions.

15 The DOJ has been something of a bear to  
16 deal with over the years on this issue because they  
17 argue that they have to prove criminal cases beyond a  
18 reasonable doubt. And just having a -- you know,  
19 maybe one password, they don't think that's going to  
20 be sufficient. So we got into arguments about two-  
21 factor authentication, whether there are digitization  
22 methods that involve some digitized signatures that  
23 have the forensic power to be enforceable. We've had  
24 some pretty -- some progress there.

1                   But there will be more discussion of  
2                   that idea of the what we call the CROMERR regulations  
3                   that deal with the legal requirements for  
4                   enforceability and submission of documents to EPA.  
5                   DOJ has a lot of interest in that whole issue of  
6                   electronic signatures. We tried to provide some light  
7                   on that issue with the proposed -- with the final rule  
8                   as well.

9                   I think that's really the core things  
10                  to summarize for you in terms of what the One Year  
11                  Rule did.

12                 And I'll open it up now for questions.

13                 **MR. BARNES JOHNSON:** Thanks.

14                 Yeah, Justin, please.

15                 **MR. JUSTIN WILSON:** Okay. Justin  
16                 Wilson.

17                 Regarding the information of manifests  
18                 being available to the public, I understand the CBI  
19                 position and resolution on that. But was a Homeland  
20                 Security perspective considered?

21                 **MR. RICHARD LASHIER:** Not in the One  
22                 Year Rule, per se, no. It has been brought up anew in  
23                 the fee rule. And we're just now having to wrestle  
24                 with the issue. Is there some other, you know, issue

1 of Homeland Security chemicals of interest being  
2 handled at these facilities that might give rise to a  
3 waste being hijacked or diverted by a terrorist or  
4 someone with malevolent intent if they could do harm  
5 with it.

6 We're looking at now in the context of  
7 the fee rule because that issue was raised in the  
8 comments that we received from both the waste industry  
9 members and I think the Department of Defense, Navy  
10 raised it one of their comments as well. So we're  
11 trying to grapple with that one now.

12 But the issue in the One Year Rule was  
13 to focus entirely on the commercial information  
14 exceptions to FOIA. It didn't actually discuss  
15 Homeland Security. There wasn't really any comment on  
16 the One Year Rule that actually raised, I don't  
17 believe, the Homeland Security issue. So we didn't  
18 address it.

19 **MR. JUSTIN WILSON:** Okay. That's it.  
20 Thanks.

21 **MR. RICHARD LASHIER:** Yes?

22 **MR. MICHAEL HURLEY:** Mike Hurley. I  
23 just had a question on the 90-day cooling off period  
24 for the manifests before the public can see them.

1 Does that also apply to states and EPA? Or can we see  
2 the data more?

3 **MR. RICHARD LASHIER:** States will get  
4 the data instantly.

5 **MR. MICHAEL HURLEY:** Oh, okay.

6 **MR. RICHARD LASHIER:** That kind of just  
7 says, Robert, the idea of the system, if it's built  
8 for -- we have the Central Data Exchange hub that  
9 typically becomes the architecture that's used for  
10 federal reporting. Maybe -- it may not actually be  
11 entirely the one we use here. But as a model, it's  
12 pretty typical.

13 But the states have nodes on the  
14 Central Data Exchange network. So the idea is that  
15 when we issue -- when the manifests come out of the  
16 system, states will have the nodes where they can just  
17 pull the data off immediately. So the idea is that  
18 they -- when it goes to the e-Manifest system, it'll  
19 be shared immediately with the authorized states that  
20 would otherwise require copies be mailed to them.

21 So it's supposed to be -- so e-  
22 Manifest, one of its early, I imagine it'll be, it  
23 will eliminate this idea of mailing copies back to  
24 generators, mailing copies to authorized states. The

1 system will be the distribution hub for the -- not  
2 only collecting the manifest, but then distributing it  
3 to the people that need to see it.

4 The handlers on the manifest will get a  
5 copy, and the authorized states that are named on the  
6 manifest will immediately get a copy through their  
7 nodes. And they'll be -- they can then extract it to  
8 their own data system and do what they will with it.

9 **MR. JOSHUA BURMAN:** Rich, a  
10 clarification question. I just want to make sure we  
11 understand. Data availability to the states, would  
12 that be opt-in or automatic?

13 You just mentioned a moment ago if  
14 required by the state. So you're talking --

15 **MR. RICHARD LASHIER:** Okay.

16 **MR. JOSHUA BURMAN:** Is the EPA  
17 contemplating putting that contingent on a state law  
18 or state rule requiring that data? Or is EPA  
19 considering that all authorized states would  
20 automatically get access to that data immediately  
21 without a contingent state law?

22 **MR. RICHARD LASHIER:** I don't really  
23 have the answer to that question. I think I'll  
24 probably defer that maybe to some of the assistant

1 developers to see how they are. Obviously, we know of  
2 these 20 state programs that currently have manifest  
3 collection requirements. The assumption is that they  
4 would have the links in place so that when manifests  
5 are submitted, that they would fairly regularly get  
6 those manifests. Whether they have to pull them down,  
7 whether it's going to be a push or a pull, I'm not  
8 sure. But those states would be considered to be  
9 getting them as a matter of course. We'll have to  
10 figure out what the mechanics will be, but they're  
11 available. Let's put it that way.

12 As for the other states that don't have  
13 tracking systems, I mean, they're eligible to come in  
14 and look at the manifest data. But they'll be dealt  
15 with almost like a member of the public to any access.  
16 And that -- and they can get it sooner than 90 days,  
17 but, you know, they're more like a data consumer  
18 without the actual system and the links. They're  
19 going to have to go in there and pull it down as  
20 needed in some fashion.

21 But I'll let the system developers talk  
22 about how that architecture would work because I don't  
23 feel that I'm up to speed on that.

24 Yes?

1                   **MR. JOHN RIDGWAY:** John --

2                   **MR. BARNES JOHNSON:** Oh, we had Robert  
3 first. Sorry. He beat you by about a millisecond,  
4 John.

5                   **MR. RICHARD LASHIER:** I thought they  
6 had little buttons for the --

7                   **MR. ROBERT KLOPP:** It's a game show,  
8 yeah.

9                   This is Rob Klopp. And it could be  
10 that there's a conversation later on in the meeting  
11 that as a -- when we might go into it in some more  
12 detail.

13                   But I guess my question is sort of  
14 about approach. I mean, you know, as a CIO in the  
15 government, I'm well aware of the issues around  
16 appropriations. And it seems to me that getting to  
17 the point that you can start collecting fees as soon  
18 as possible is really, really important.

19                   **MR. RICHARD LASHIER:** Yeah.

20                   **MR. ROBERT KLOPP:** You know, when I was  
21 working for a startup company, you know, you would be  
22 doing everything you could to get to the point where  
23 you generated revenue --

24                   **MR. RICHARD LASHIER:** Mm-hmm.

1                   **MR. ROBERT KLOPP:** -- by building what  
2 would be considered a minimum viable product. I just  
3 wondered if -- as a matter of approach do you have  
4 that really tight focus on the absolute minimum that  
5 needs to be developed to start generated fees.

6                   **MR. RICHARD LASHIER:** That approach is  
7 very much a part of our planning process right now. I  
8 mean, we are -- we've actually used that term, minimum  
9 viable product, in our own internal discussions. The  
10 idea is what -- we're saying we want to get something  
11 up fee worthy as soon as possible so that we can begin  
12 to be self-sustaining.

13                   **MR. BARNES JOHNSON:** Yeah. And Robert,  
14 we can bring that up more when the system folks come  
15 up because we are -- you'll see that we're definitely  
16 focused in that direction. So okay.

17                   **MR. RICHARD LASHIER:** Yes?

18                   **MR. JOHN RIDGWAY:** John Ridgway from  
19 Washington.

20                   Can we get a list of the 20 states that  
21 do require these manifests?

22                   **MR. BARNES JOHNSON:** Yeah, we can get  
23 that for you. I don't have it with me today. But --

24                   **MR. JOHN RIDGWAY:** Yeah, that would be



1 great. Thanks.

2 **MR. JOSHUA BURMAN:** Joshua Burman.

3 Just a response both to Mr. Ridgway and for Mr.  
4 LaShier.

5 The reason I posed that question is  
6 because of the long interval of the phase-in of the e-  
7 Manifest program, state laws and state rules change  
8 continuously. And there are many states that may, for  
9 budgetary reasons, cease at some point, requiring  
10 manifests on their own or manifests -- excuse me --  
11 manifest processing or submittal on their own.

12 And some states have very recently  
13 ceased that within the past five years due to that  
14 reason. But those states would likely, and at least I  
15 would recommend to EPA as a member of the Board, they  
16 maintain that those states may still want that  
17 information. And those changes may not indicate a  
18 change in their regulatory program or overview such  
19 that they don't see a need for that data.

20 In addition, there may be states very  
21 well that in -- currently may be contemplating  
22 requiring submittal of data or collection of data.  
23 And I would be recommending that EPA not limit to  
24 those states, that at some point at a set date had

1 required data because that may change on a daily basis

2 --

3 **MR. BARNES JOHNSON:** Right.

4 **MR. JOSHUA BURMAN:** -- depending on the  
5 state.

6 **MR. RICHARD LASHIER:** Yeah. That's a  
7 good point, Josh. And like, we aren't sure what will  
8 actually be the ramifications of e-Manifest in terms  
9 of the existing state tracking programs. There are  
10 some that may maintain their programs, just use e-  
11 Manifest as a more convenient way to collect the data  
12 and then do what they will with it in their own  
13 tracking systems once they obtain it.

14 Others might decide to shut down their  
15 tracking system if there's a redundancy and rely upon  
16 the national system as the source for not only  
17 obtaining data, but also interpreting it rather than  
18 having to go through their own tracking system.

19 We're not trying to force the issue.  
20 We know that the consolidation is an admirable thing.  
21 The thought is, over time, there probably would be  
22 more consolidation of not only federal requirements,  
23 but also some of the state tracking programs. But  
24 we'll have to see how that plays out.

1                   And again, it has to be -- meet the  
2 users' needs. And that'll be something that we'll  
3 have to prove.

4                   **MR. BARNES JOHNSON:** Okay. We have  
5 reached our break point. Thank you, Rich, for  
6 sharing.

7                   **MR. RICHARD LASHIER:** Okay.

8                   **MR. BARNES JOHNSON:** And we will  
9 reconvene at five 'til.

10                   (Off the record.)

11                   **MR. BARNES JOHNSON:** All right. We're  
12 going to get started. So we're going to invite Steve  
13 Donnelly up to the table and Scott Christian.

14                   So you guys have name -- I see Steve's  
15 nametag right there. So folks -- Steve, you want to  
16 grab that? I don't know if Scott has one or not. But  
17 okay. All right.

18                   So we have Steve Donnelly and Scott  
19 Christian, both members of the e-Manifest team. And  
20 they are going to spend the next few minutes giving  
21 you kind of an overview summary of the e-Manifest  
22 system.

23                   So take it away, guys.

24                   **MR. STEPHEN DONNELLY:** All right. Let

1 me put this a little closer.

2 Thank you all. Thank you, Barnes.

3 Thank you to the Board. Thank you to the public and  
4 everyone at the EPA who's helped out with e-Manifest  
5 who is along for the ride and to the e-Manifest  
6 development team, the user fee rule.

7 I'd like to thank everybody involved  
8 who is here listening. I consider this an honor to be  
9 a part of this program. And no matter where you're  
10 sitting inside the Agency or out, this is a team  
11 effort, and I consider you part of the team. So I  
12 appreciate all the feedback I get. I appreciate all  
13 the phone calls, the emails. Thank you all.

14 All right. So let's get started  
15 talking about the e-Manifest system. This e-Manifest  
16 falls under the E-Enterprise portfolio. And as Mathy  
17 said earlier, this is the new way for building  
18 environmental applications. This is collaborative  
19 within EPA. This is collaborative with industry,  
20 states, and the public. This is shared services.

21 We work internally to make sure the  
22 applications we are building have use within the  
23 Agency. So there's shared services that other parts  
24 of the Agency provide for e-Manifest like Central Data

1 Exchange, like CROMERR. We let them know how their  
2 services impact us. We give them feedback, and they  
3 tell us how we're using the program. So this helps us  
4 make our internal IT portfolio that much sharper.

5 And this conversation extends to the  
6 user community as well. So if you'd like to learn  
7 more about E-Enterprise, I encourage you. There is a  
8 URL printed out in the slide deck.

9 Okay. Let's talk about e-Manifest.  
10 Did I skip a slide? I did. No.

11 All right. e-Manifest, the current  
12 state. As Rich said earlier, this is a paper copy of  
13 a manifest right now. And it has a very large burden  
14 associate with it. This is a form this is six-copy,  
15 and it must be from a registered printer. It has to  
16 be completed by the generator. It has to be  
17 physically carried with a shipment on a truck.

18 At certain points during the '90s when  
19 we were researching this, there was fleet of trucks  
20 that actually had laser printers on them for printing  
21 out of the manifest. That's how onerous the  
22 transaction got. You actually had to put a printer on  
23 a truck.

24 I thought it was a joke when I learned

1 about, oh, a printer truck. Oh, no. It's a truck  
2 with a big printer on it. It's -- wow. And it  
3 satisfies the EPA and DOT's requirements for shipping  
4 documents.

5 In broad strokes, the manifest system  
6 currently in place works. But it is clunky, and it is  
7 burdensome. We are moving to a new place. e-  
8 Manifest, when it is complete, we are going to own the  
9 data. That's all we really ask for in return. In  
10 addition to fees to support the system, we want to own  
11 the data.

12 We will be the warehouse. We will  
13 facilitate, and we will centralize this information.  
14 And this will allow handlers, states, and the EPA to  
15 track the shipments, and it will be a unique tool for  
16 industry to see just how their waste is moving not  
17 just within their office, but within the industry at  
18 large so they can leverage that information in a  
19 million different ways. It's really up to them to see  
20 how this new wellspring of information can change  
21 their business for the better.

22 There's going to be three ways to  
23 submit data to e-Manifest when it's complete. There  
24 is paper and image. We will plan on having a paper-

1 processing center we'll discuss further. And that  
2 will also allow for the submission of scanned manifest  
3 data. This is all the same. We're treating paper and  
4 images sort of the same. We'll talk more about that  
5 in detail.

6 And there's going to be a web-based  
7 system which we'll have a walkthrough later this  
8 afternoon. And this will allow industry users to  
9 access our web-based system via the CDX exchange and  
10 the RCRA industry application that e-Manifest is  
11 leveraging. And this could be available from any web  
12 browser.

13 And there's also the system-to-system  
14 application using the e-Manifest APIs.

15 We're going to skip ahead to next  
16 slide, and we can give a -- sort of a nickel tour of  
17 what we're doing here. So we can see -- so industry  
18 systems will connect via the API. And we'll add paper  
19 processing to this as well because that's how they  
20 will submit the manifest data into e-Manifest.

21 The paper-processing operation is a  
22 very roundabout, long way to submit data to e-Manifest  
23 via API. It's going to be mailed to a paper-  
24 processing center. It is going to be scanned. It's

1 going to be double-checked. It's going to be  
2 verified. And then it's going to be uploaded to the  
3 e-Manifest system through the services.

4 And then we have our web application.  
5 We will get a demo of that later. And that web  
6 application is device-aware. So it's scalable.  
7 There's no e-Manifest iPhone app. You can't go to the  
8 Google store to buy -- to get the e-Manifest  
9 application. But we do have it so it will be  
10 available on your mobile device.

11 And the information flows into this e-  
12 Manifest services. And as we said earlier, the  
13 information will become available immediately to  
14 industry systems, to states, and to the EPA. And we  
15 have at this point right now discussed a 90-day grace  
16 period for public access to the data.

17 All right. So we'll stop real quick  
18 for questions. We're going to kind of -- we're going  
19 to have a lot of information coming at you. So we can  
20 move forward to it.

21 **MR. BARNES JOHNSON:** Robert?

22 **MR. ROBERT KLOPP:** So Rob Klopp. I  
23 mentioned earlier about minimal viable product. And I  
24 guess my question is, you know, it seems to me like



1 the paper-based system, to some extent, defines the  
2 absolute minimum.

3 I guess I wondered, you know, how is  
4 the paper used other than, you know, kind of as you go  
5 you sign things off and, in the end, you've got a  
6 paper trail. But is it used in any meaningful way  
7 other than to sort of ensure that all of the steps are  
8 followed as you go? Or is there some use of the paper  
9 system after the fact?

10 And why I'm going there is because the  
11 picture you just put up showed all kinds of  
12 interesting things going on like iPhone apps and  
13 things like that. But I'm not sure why that's part of  
14 a minimum viable product that is, I mean, don't get me  
15 wrong. I think it's clearly part of a product. But  
16 the question is why is it the absolute minimum.

17 **MR. STEPHEN DONNELLY:** Well, we don't  
18 have an -- our web application is needed for  
19 generators. And during our industry survey, a large  
20 amount of generators -- and there are some TSDs who  
21 will be using e-Manifest -- do not have systems at  
22 this point to connect to e-Manifest. They don't have  
23 the APIs. They don't have services that could  
24 interact with e-Manifest.

1                   But they do have computers with  
2 internet access. We do need to service that customer  
3 base.

4                   And there is -- we'll discuss further.  
5 There is the minimum product we are launching which is  
6 we're launching e-Manifest with the hybrid approach.  
7 So we are not launching fully electronic. There will  
8 be paper there during the life cycle until it ends at  
9 the treatment, storage, and disposal facility. And  
10 them the manifest will be signed and entered into the  
11 system. We'll discuss that a little further.

12                   But we do understand that realities  
13 with user adoption and with timeline really push us  
14 towards moving this application towards a hybrid  
15 electronic paper submission when we launch. And as  
16 fees come in and as we iterate out and discuss with  
17 our user community what works best, we will move  
18 towards fully electronic. But as we launch in spring  
19 of 2018, we are very cognizant of the realities of the  
20 program.

21                   **MR. JUSTIN WILSON:** Sorry, I didn't get  
22 that.

23                   **MR. STEPHEN DONNELLY:** That was the  
24 hybrid manifest solution. So we can talk about that

1 later. That was Siri. All right.

2 **MR. RAJ PAUL:** I have a question.

3 Sorry.

4 **MR. STEPHEN DONNELLY:** Sure.

5 **MR. RAJ PAUL:** The paper processing  
6 which you showed is going to be part of the hybrid  
7 system, does any part of it exist today before the e-  
8 Manifest system, where those two-day forms are used,  
9 right?

10 **MR. STEPHEN DONNELLY:** That is an -- so  
11 you're saying that does any -- I'm not sure I really  
12 understand your question.

13 **MR. RAJ PAUL:** So data could come  
14 electronically. Or you're manually going to process  
15 the paper, and it gets into your system, right?

16 **MR. SCOTT CHRISTIAN:** Hey, Raj. One --  
17 so industry -- a lot of the industry --

18 **MR. BARNES JOHNSON:** Scott, can you  
19 identify yourself? Sorry.

20 **MR. SCOTT CHRISTIAN:** I apologize.

21 Scott Christian, e-Manifest Team.

22 The data exists in industry systems  
23 currently. They take the paper manifest; they put it  
24 in their system. We are -- and you will see in my

1 demo in a little bit, we're going services first so  
2 that those people can continue -- those companies and  
3 organizations can continue using their same systems  
4 that they are using today to putting that and to send  
5 us the data electronically afterwards and also for  
6 generators that -- and transporters that do that as  
7 well. Was the question you're asking?

8 **MR. RAJ PAUL:** So the processing of the  
9 paper exists today --

10 **MR. SCOTT CHRISTIAN:** Mm-hmm.

11 **MR. RAJ PAUL:** -- just that the  
12 integration to your system electronically is what the  
13 system is going to provide as a --

14 **MR. SCOTT CHRISTIAN:** Not by EPA.

15 **MR. RAJ PAUL:** Okay.

16 **MR. SCOTT CHRISTIAN:** There are states  
17 -- certain states like Massachusetts and California.  
18 They take the paper in. They process it and then use  
19 it. New York also does that as well.

20 But EPA, as central location, does not  
21 at this time. That is why we're going through with  
22 these fee rules in here.

23 **MR. RAJ PAUL:** Okay. Thank you.

24 **MR. BARNES JOHNSON:** Yeah. And just to

1 add to that a little bit -- and I think this came up  
2 earlier, Raj, when Rich was talking -- there are about  
3 20 states that in various ways, shapes, and forms  
4 utilize the -- utilize and, to varying different  
5 extents, automate the e-Manifest paper copies that are  
6 transacted today.

7 I think the three states that we have  
8 on our board have some measure -- no, Washington does  
9 not. Okay. But Massachusetts and Minnesota have some  
10 handling of manifest centrally, I believe; is that  
11 correct?

12 **MR. JOSHUA BURMAN:** Minnesota's been  
13 collecting manifests for approximately 30 years. And  
14 we're actually in a transition phase that'll be -- I  
15 shouldn't say we. I apologize. The Minnesota  
16 Pollution Control Agency is in a transition phase.  
17 It'll be germane to the fee portion of this discussion  
18 because the state is at a crossroads on that.

19 **MR. BARNES JOHNSON:** Got you.

20 **MR. RAJ PAUL:** So the intention of the  
21 question, Barnes, was when I was asking about the user  
22 fees. In order to determine the system cost for  
23 development, I'm just trying to understand how much of  
24 reuse exists, or the whole thing is going to be --

1 will become scratch. So that was intention of the  
2 question.

3 **MR. BARNES JOHNSON:** Thank you.

4 **MR. STEPHEN DONNELLY:** Okay. So this  
5 next session, we're going to discuss the next few  
6 weeks and months and years of e-Manifest system  
7 development leading us towards deployment in 2018.  
8 But before we get there, I'd like to discuss the --  
9 sort of the pre-history of this application.

10 There was a lot, as we saw in Rich's  
11 presentation, there was a lot about e-Manifest that  
12 happened before I got here. And part of this was an  
13 evaluation of commercial off-the-shelf solutions. And  
14 we performed an exhaustive market research. And we  
15 determined that, because of e-Manifest's unique  
16 customer base and the CROMERR signature requirements,  
17 a commercial off-the-shelf solution was not a viable  
18 solution.

19 In particular, we looked at FedEx and  
20 UPS. And while they see way more than 3 to 5 million  
21 transactions per year, they are dealing with a very  
22 limited user base. They have their drivers, and then  
23 they have their customers where they're dropping off  
24 their packages.

1                   We're dealing with over 160,000  
2 hazardous waste handlers -- the facilities,  
3 transporters, generators in different states. And it  
4 is very, very difficult to take what the UPS or FedEx  
5 or anyone has done and make that a viable solution for  
6 this product. That's why we decided to go with  
7 building our own application.

8                   **MR. MICHAEL HURLEY:** Mike Hurley,  
9 Massachusetts.

10                   Just a quick question. Is the paper  
11 aspect of this one of the largest complicators [sic]  
12 and it makes the most difficult to get a COTS  
13 solution? Or is it just the whole thing?

14                   **MR. STEPHEN DONNELLY:** The user base,  
15 the -- just the diversity of the hazardous waste  
16 industry.

17                   And in 2013, we performed our initial  
18 concepts of operations. We were initially gearing  
19 towards a single sole-source application where we  
20 would find a vendor and we would give them our  
21 requirements and then we would have them build it and  
22 they would deliver the product.

23                   However, throughout -- while this is  
24 going on, our architecture solutions, we were meeting

1 with industry. We were discussing the requirements,  
2 all which were very useful. There was a C change  
3 undergoing, government IT system development. We were  
4 moving away from the traditional waterfall approach  
5 where we would find a single vendor and have them  
6 build our application. And we were moving towards  
7 Agile where we would build something small, and we  
8 would iterate out based on feedback from the user  
9 community.

10 This coincided with the standup of the  
11 General Services Administration 18F. And they came  
12 onboard in 2015 at the direction of our CIO and our  
13 chief technology officer to lead e-Manifest into the  
14 future by building this application using modular  
15 techniques.

16 And they got us to a point where we  
17 were able to build and deliver a minimum viable  
18 product in March of 2016. And this represented a very  
19 big milestone for the program. And it gave us the  
20 sort of gravity, I'd say, to let everybody know in the  
21 hazardous waste community that, yes, there has been a  
22 long lead-up and a lot of talk over the years about  
23 building an e-Manifest system.

24 And it was -- it gave our users



1 something they could touch and something they could  
2 feel and know that the EPA is serious about developing  
3 this system this time. And we really appreciate all  
4 the input that we got along the way.

5 And as we moved past the minimum viable  
6 product, we sort of hit a point where we had to think  
7 about this application in terms of the EPA and the  
8 RCRAInfo universe. And we'll discuss that later, but  
9 I see I have a question slide coming up.

10 Does anybody have any questions before  
11 we go further?

12 **MR. ROBERT KLOPP:** Did you deploy the  
13 minimum viable product?

14 **MR. STEPHEN DONNELLY:** Yes.

15 **MR. ROBERT KLOPP:** So it's in use now  
16 in product by some number of states?

17 **MR. SCOTT CHRISTIAN:** No, that it is  
18 not. We -- oh, Scott Christian.

19 **MR. ROBERT KLOPP:** Yeah. And I'm Rob  
20 Klopp. Sorry.

21 **MR. SCOTT CHRISTIAN:** It is not. We  
22 released it out there. We got a lot of really good,  
23 solid feedback -- and as Steve has alluded to with our  
24 next steps, which we'll get into, of where we took

1 that and kind of de-commissioned it. And it will be  
2 back live again very soon.

3 **MR. ROBERT KLOPP:** So as you were doing  
4 this Agile development of this stuff, who was the user  
5 that was looking at it every two weeks? Because I  
6 mean it's --

7 **MR. SCOTT CHRISTIAN:** Yeah, yeah. No,  
8 no, no.

9 **MR. ROBERT KLOPP:** You would have  
10 thought that you would have gotten feedback all the  
11 way through. And when you rolled it out in March, it  
12 was already blessed.

13 **MR. SCOTT CHRISTIAN:** We actually had a  
14 lot of support from -- throughout industry -- ETC  
15 members. Tom Baker, he gave us a very solid feedback.  
16 States -- we've gotten feedback along the way and to  
17 help fee that from; actually, the other two gentlemen  
18 sitting next to you as well.

19 And so we talked with industry.  
20 Everything was posted publicly and still is.  
21 Everything's publicly posted on both Trello and  
22 GitHub. And we continue to get feedback from various  
23 users.

24 **MR. ROBERT KLOPP:** But I mean in Agile,

1 you have a regular team of people that look at it  
2 every two weeks and provide you feedback. My question  
3 is how could you have that feedback every two weeks,  
4 deploy in March and then un-deploy? What didn't --  
5 what went wrong?

6 **MR. SCOTT CHRISTIAN:** Well, nothing  
7 went wrong. We just had -- we can't go live until we  
8 get the fee rule done. And so we could --

9 **MR. ROBERT KLOPP:** I'm sorry. Until  
10 you get the what done?

11 **MR. SCOTT CHRISTIAN:** This fee rule  
12 that we're --

13 **MR. STEPHEN DONNELLY:** Yeah, the user  
14 fee rule needs to become final before can launch --

15 **MR. ROBERT KLOPP:** Oh, the fee rule.  
16 I'm sorry. I just didn't -- yes.

17 **MR. SCOTT CHRISTIAN:** So we can't be a  
18 cost-recoverable system. What we can do is get folks  
19 to hook in and give us feedback. And that's why we're  
20 also starting this so early because, as Rich mentions,  
21 spring of next year? 2018?

22 **MR. STEPHEN DONNELLY:** Yes.

23 **MR. SCOTT CHRISTIAN:** So the fee rule  
24 will go final spring of 2018. We're releasing the

1 test next month and then a broader test in June and  
2 then after that.

3 Industry and states will have time to  
4 get into their development cycles, our services, or,  
5 if they're not going to use the services, be able to  
6 at least look at our front-end web app to say this  
7 makes sense, this works. And we'll have that full  
8 year of -- while we wait for the fee rule to be  
9 signed.

10 **MR. STEPHEN DONNELLY:** Yeah. And one  
11 of the charge questions is based on our outreach  
12 approach and discussing what could we do better  
13 because we do have -- among the many things we are  
14 working on, one of the plates we're spinning is user  
15 registration.

16 We have a lot of people already  
17 involved with RCRAInfo who have the proper IDs and  
18 credentials to submit manifests. However, there's a  
19 large amount of the population that we have not  
20 touched to yet that need to have the -- need to be  
21 part of the RCRAInfo application universe so they can  
22 submit manifests.

23 We have a significant road ahead of us  
24 in terms of getting people on board with e-Manifest

1 that have not formally signed up yet.

2 **MR. BARNES JOHNSON:** John, please.

3 **MR. JOHN RIDGWAY:** I think there's a  
4 misunderstanding. When they said deploy, it wasn't  
5 fully deployed. They put a pilot out there, and  
6 that's what they're working with. So the system has  
7 not been fully deployed or is in full operation yet by  
8 any means.

9 **MR. ROBERT KLOPP:** I guess my point is  
10 a minimum viable product is a minimum viable product.  
11 It's not a pilot. It's not a proof of concept. And I  
12 -- but I guess I'm really also interested. And so it  
13 sounds like even if you had it all built, you couldn't  
14 deploy because you don't have a fee rule?

15 **MR. SCOTT CHRISTIAN:** Correct --

16 **MR. ROBERT KLOPP:** And what's holding  
17 that up?

18 **MR. SCOTT CHRISTIAN:** The e-Manifest  
19 Act. In the act, it says we must be a cost-  
20 recoverable system.

21 Oh, sorry. Scott Christian.

22 **MR. ROBERT KLOPP:** But I mean, what is  
23 -- I understand --

24 **MR. SCOTT CHRISTIAN:** So that was my

1 opinion --

2 **MR. ROBERT KLOPP:** I understand that  
3 you have to be cost-recoverable. My question is why  
4 is it that you aren't -- can't deploy something that's  
5 cost-recoverable.

6 **MR. STEPHEN DONNELLY:** Well, there's a  
7 few things that we need to stand up before we can --  
8 we have to be able to accept paper, is one of the  
9 parts of the rule that -- or the law that we have to  
10 follow. And we're not deployed right now where we can  
11 stand up a paper capture operation. That is one of  
12 the -- that's one of the parts of the system we are  
13 currently working on. We're engaging with states with  
14 their experience.

15 And we also have an issue with --  
16 welcome to the table, Rich. Oh, I lost my train of  
17 thought.

18 And we also have a congressional -- we  
19 stated in front of Congress that we're going to be  
20 launching in spring of 2018. That's been our deadline  
21 for having this fee-worthy system. And there's a few  
22 things that go into that, and I think Rich is going to  
23 add to that right now.

24 **MR. RICHARD LASHIER:** In regard to the

1 issue about the fee rule in some way being an  
2 impediment to the deployment of the minimally viable  
3 product, the reason why that's an issue is that the e-  
4 Manifest Act called for EPA to develop the fee  
5 regulations -- to develop the fee -- the e-Manifest  
6 regulations, including determining the reasonable fees  
7 by regulation.

8 We went through a proposed rule last  
9 summer. It was published in July, a 60-day comment  
10 period. We just analyzed the comments. Now we're  
11 reconvening the workgroup to develop the fund rule.

12 But it's just the nature of the  
13 regulatory process that it doesn't operate in days or  
14 weeks. It operates over many months, as you probably  
15 know from your work at SSA. We are now at the -- sort  
16 of at the beginning of convening the workgroup to work  
17 out the final rule language.

18 And this is the reason we have to have  
19 the final rule out there -- because we are actually  
20 identifying our fee methodology, how we are going to  
21 set what cost we're going to do, how we're going to  
22 allocate cost to manifest and how those fees will be  
23 determined, as well as how they're going to be revised  
24 over time so that, to do that by regulation, we have

1 to have the final rule in place before they can say,  
2 oh, now we can collect these fees.

3 We can't have a fee recoverable system  
4 until we have the fees determined -- the fee rule  
5 determined as a final rule. Then they can begin to  
6 not only implement the system, but then collect the  
7 appropriate fees as determined by the rule.

8 **MR. ROBERT KLOPP:** Yeah. So I get  
9 that, and that's actually what -- I had a feeling that  
10 that wasn't the story.

11 **MR. RICHARD LASHIER:** Yeah.

12 **MR. ROBERT KLOPP:** That's what I was  
13 trying to get at.

14 But I guess I'm -- it seems like if  
15 it's a requirement that you have the fee rule in place  
16 that we would have started that process three years  
17 ago, not -- right? I mean, you would think that that  
18 fundamental thing that's a required minimally viable  
19 requirement would have been something that you would  
20 have -- that would be ready by now, not that you'd  
21 just be starting.

22 **MR. RICHARD LASHIER:** Well, we started  
23 the proposed rule well before -- well, I'll say we  
24 issued the proposed rule in July. It started sometime



1 before that. We have to obviously have these statutes  
2 enacted before we could begin any regulation. And  
3 that first order of business was getting the One Year  
4 Rule out to provide legal and policy framework. And  
5 we couldn't actually begin to determine the fee  
6 methodology until we understood better how the  
7 contracts and how the -- what the cost of system would  
8 be that would be funneled into the overall cost  
9 recovery to establish the fees.

10 We just had to go about an orderly way  
11 and deal with the first year requirement for the legal  
12 policy framework and then begin working on the fee  
13 rule as we saw the system path developing. It wasn't  
14 ideal. Obviously, in an ideal world, we would have  
15 had all these decisions already in mind, been able to  
16 foresee where these -- how these would converge and  
17 why it would be necessary to have the fee rule done  
18 two years ago. But you know, we have program  
19 direction that's established as we go through the  
20 process, and that's how it's all played out.

21 **MR. BARNES JOHNSON:** Yes, Raj, please.

22 **MR. RAJ PAUL:** To continue with Rob's  
23 statement, so is it a minimal viable product, or is it  
24 basically just print the deliverables or you want an

1 early feedback from the user community?

2 **MR. SCOTT CHRISTIAN:** We wanted an  
3 early feedback from the user --

4 **MR. RAJ PAUL:** So it's not --

5 **MR. SCOTT CHRISTIAN:** -- community.

6 **MR. RAJ PAUL:** -- minimal viable  
7 product.

8 **MR. SCOTT CHRISTIAN:** It's -- the goal  
9 was to get something that would be fee-worthy. And  
10 that's going to be continuing the goal for the --  
11 throughout this year, is making sure we deliver a  
12 product that on day one people can use.

13 **MR. RAJ PAUL:** Because with Agile  
14 development, I mean, you can have your spring  
15 deliverables in a way so that you can get early user  
16 feedback.

17 **MR. SCOTT CHRISTIAN:** Yes.

18 **MR. RAJ PAUL:** But minimal viable  
19 product, that's a little bit different. And I think  
20 this is more early feedback as opposed to have a  
21 minimal viable product.

22 **MR. ROBERT KLOPP:** And this is Rob. I  
23 think that that's great. I think what you've done is  
24 spot on. I just -- it's just not a minimal viable

1 product, and you have to be careful about using that  
2 word.

3 **MR. SCOTT CHRISTIAN:** Thank you.  
4 Appreciate it.

5 **MR. ROBERT KLOPP:** Yeah, it's really  
6 good what you're doing.

7 **MR. STEPHEN DONNELLY:** All right. So  
8 let's move on. Okay. So we're going to talk about  
9 how we're using Agile to develop this system. All  
10 right.

11 A little clarification just on the  
12 roles of this -- how -- where I fit into the e-  
13 Manifest program and where Scott does and where Rich  
14 does is that I am the program and project manager of  
15 e-Manifest. I'm the go-between industry and EPA and  
16 the rule and the system and management. So I make  
17 sure our stakeholders, both internal and external,  
18 their questions are answered in a timely fashion and  
19 in a way that communicates the successes of the  
20 system.

21 And long term, I am charged with  
22 planning for the long term -- the deployment of the  
23 system, so how it's going to be operating once it  
24 launches. And I am the proper steward -- I have to

1 say this all the time, but I love saying it -- the  
2 proper steward of M-3 money.

3 When e-Manifest is given money, it's  
4 not Agency money. It's a direct line directly from  
5 Congress, and I am charged with ensuring that this  
6 money is only spent on e-Manifest-related activities  
7 so there's nothing unrelated to e-Manifest that M-3  
8 money goes towards.

9 And then Scott here is the product  
10 owner of e-Manifest. He is in charge of the  
11 development.

12 All right. Let's talk -- yeah. So we  
13 have -- and so the way we're doing Agile is we have  
14 our -- nothing out of the ordinary. We are using two-  
15 week sprint intervals. We are using modular  
16 development practices. We are tracking our progress.

17 We initially used Trello, which was a  
18 type of project tracking device that was online. Then  
19 we moved away from Trello into Gero (ph) where we do  
20 the main bulk of our project management system-wide.  
21 So this is where our user stories go. This is where  
22 we create our issues. This is where we mark things as  
23 done. This is where we have our discussions, and this  
24 is where Scott spends most of his time in Gero just

1 dealing with that.

2           There's been discussion about does e-  
3 Manifest know what it's going to look like during  
4 Release 1, Release 2 post-deployment. Yes, it is all  
5 in there. There is user stories for most of the  
6 scenarios involved in the system. We've scoped this  
7 system out, and there is some -- like, people know  
8 with Agile you have some things that go into your  
9 project. There are some things that don't go in.

10           But we feel that our communication with  
11 our users and with our development team we have a path  
12 forward that we'll build that fully fee-worthy system.  
13 But that doesn't mean we have the perfect idea of what  
14 the fee-worthy system's going to be.

15           That's why we are focused on continuous  
16 improvement. That's why we are starting with the  
17 February release. We are going to be putting out a  
18 stable trunk of code on GitHub for industry use. We  
19 have our chase on schema that we have sent out to our  
20 user community for testing. And we are engaging  
21 regularly with our users and stakeholders, and we want  
22 to do a better job.

23           Part of the reason why everyone's here  
24 is to discuss what is a -- how can we get some more

1 substantive discussion from an IT perspective into our  
2 system. We have a lot of talk about the rule, and the  
3 rule is great. But we want to engage further with our  
4 user community the nuts and bolts of this system and  
5 how it's going to be operating.

6 After you, Robert.

7 **MR. ROBERT KLOPP:** So I think what you  
8 just said is really important, right, because, you  
9 know, really, the key of Agile is that the user is  
10 engaged every day in a perfect world, right? And a  
11 lot of times, you know, what you find is that you  
12 can't get the user there every day. And so you sort  
13 of create an organization. It's a bit of a proxy for  
14 the user, and you -- hopefully, you talk to them every  
15 week.

16 But if you talk to them every month,  
17 you probably aren't doing Agile, right? And if you  
18 talk to them infrequently and not as a regular part of  
19 the process, then it's really not Agile.

20 Having EPA folks play the role of the  
21 user when, in fact, the users or all the constituents  
22 I asked about earlier, it's the states and the  
23 transporters and all. Those are the users, right? If  
24 those people aren't involved weekly -- preferably

1 daily and hourly, but weekly -- then I think that  
2 there's a disconnect that will make it unlikely that  
3 you are going to end up delivering something that's  
4 going to make them all really happy.

5 And by the way, I get that that's  
6 really hard when your users aren't part of EPA and  
7 you've got to go reach out to them. I know how hard  
8 that is. But that's something we might have some  
9 discussions about what we can do to make that better  
10 because that's -- I think it's really fundamental.

11 **MR. STEPHEN DONNELLY:** Oh, absolutely.  
12 That's good to hear. It's exciting to hear.

13 All right. So we're -- oh, sorry. I  
14 did not see you there.

15 **MR. JOSHUA BURMAN:** I apologize. I  
16 think I'm going to build a little off of what Robert  
17 said. This is Joshua Burman.

18 Could you please clarify who during  
19 this Agile development process you are viewing as  
20 users? That term is being thrown around a bit  
21 loosely, I think. Speaking from a state perspective,  
22 at least the State of Minnesota is not a current user.  
23 And we would be if such were available.

24 So that's -- and how did you identify

1 the stakeholders that you're developing the Agile  
2 process with?

3 **MR. SCOTT CHRISTIAN:** So on the  
4 industry side, it was self-selection volunteers. On  
5 the state side, we have a state design -- state and  
6 regional design team that has been meeting monthly.

7 We put out a request over the RCRAInfo  
8 Listserv and took the volunteers from that list.  
9 There's about six states on it and a few regions. We  
10 do plan on expanding that. But right now, it's a  
11 small group. But we do see states, regions,  
12 headquarters, and industry as the users of the system.

13 **MR. JOSHUA BURMAN:** The eventual users,  
14 but you have been continually using terms of we are  
15 developing, we have been developing with the users,  
16 we're getting feedback from the users every two weeks.  
17 Who are those users now?

18 **MR. SCOTT CHRISTIAN:** The users now, on  
19 the state side, we have a few states. It's not --  
20 like I said, it's on a -- more of a monthly basis and  
21 more of a review of what we've done. And that kicked  
22 off late last year.

23 It's New Hampshire, Washington State --  
24 has a -- North Carolina, our Region 1, Region 7,



1 Region 9, Oklahoma, California, New York.

2 **MR. JOSHUA BURMAN:** That doesn't  
3 address who the users are. You -- yeah. Again, I  
4 apologize for beating the point. But the users of the  
5 system will be the hazardous waste handlers as well --

6 **MR. SCOTT CHRISTIAN:** Right.

7 **MR. JOSHUA BURMAN:** -- as regulators.

8 **MR. SCOTT CHRISTIAN:** Mm-hmm.

9 **MR. JOSHUA BURMAN:** And I am concerned  
10 that we may be -- that the word user may be used  
11 inappropriately right now unless there are handlers  
12 now involved in the Agile development process.

13 **MR. SCOTT CHRISTIAN:** Yes.

14 **MR. JOSHUA BURMAN:** Then there aren't  
15 users.

16 **MR. SCOTT CHRISTIAN:** We have gotten  
17 feedback from TSDFs, from TSDFs that have their own  
18 systems. We've also gotten feedback from third party  
19 EHS, environmental health and safety, product service  
20 providers.

21 **MR. JOSHUA BURMAN:** Feedback in terms  
22 of them viewing the product every two weeks?

23 **MR. SCOTT CHRISTIAN:** Not every two  
24 weeks, no --

1                   **MR. JOSHUA BURMAN:** So they're not part  
2 of the Agile development process.

3                   **MR. SCOTT CHRISTIAN:** They have  
4 provided us information that we use in our two-week  
5 sprints. But our engagement needs to increase.

6                   **MR. STEPHEN DONNELLY:** Yeah, we --

7                   **MR. JOSHUA BURMAN:** I'm not try to be  
8 negative. I'm just trying to be very clear about what  
9 the process has been --

10                  **MR. SCOTT CHRISTIAN:** Yep.

11                  **MR. JOSHUA BURMAN:** -- to this point  
12 and is now. And I think some of the terms that have  
13 been used so far are incorrect or misleading.

14                                 Please correct me if I'm wrong --  
15 you're working with, essentially, fake data from  
16 hypothetical handlers and then reviewing how the  
17 system handles that, basically a debugging process at  
18 this point. Is that where we are? Or are we further  
19 down the road?

20                  **MR. SCOTT CHRISTIAN:** That's a fair  
21 assessment.

22                  **MR. JOSHUA BURMAN:** Okay. Thank you.  
23 I think we just need to be clear about that --

24                  **MR. SCOTT CHRISTIAN:** Yeah.

1                   **MR. JOSHUA BURMAN:** -- because then  
2 there are not actual users testing the system.  
3 They're not testing a potential product. We're still  
4 looking at a basic design phase then.

5                   **MR. STEPHEN DONNELLY:** Yeah. And we  
6 have a list of about 900 stakeholders. But yes, you  
7 know, as I said earlier, this is -- one of the reasons  
8 we brought this Advisory Board together was for  
9 industry experts to provide advice on what is the best  
10 way to get substantive user feedback because we are  
11 building a system, and we would love interested  
12 parties to take ownership of what we're building.

13                   We have, you know, as we saw earlier,  
14 we have 160,000 potential users to this system. We  
15 need a path forward to optimize that conversation  
16 because we can't, obviously, be on conference calls  
17 all day. We need some structure for our system going  
18 forward. And we look forward to hearing what you guys  
19 have to say.

20                   **MR. BARNES JOHNSON:** So yeah. Just for  
21 my committee here, I want to just -- and I think the  
22 discussion so far has been absolutely fine. I do want  
23 to just let everybody know kind of what the process  
24 is. In other words, today is a good day to just,

1 like, ask clarifying questions.

2 Josh, you were asking a clarifying  
3 question, which is great.

4 But we also are sort of getting  
5 dangerously close to providing advice today. So  
6 tomorrow is -- after our public comment period will be  
7 a time where you're -- you know, where advice will be  
8 rendered by the committee.

9 If we could just sort of try to draw a  
10 distinction between -- today is your opportunity to  
11 kind of learn more. I can infer, Josh, what some of  
12 your suggestion might -- Rob and -- what they might be  
13 from the conversation. But it just -- just trying to  
14 keep things square here.

15 And Rob, did you -- somebody was about  
16 to ask a question. Oh, yeah, Josh was. Yeah, yeah,  
17 yeah. Go.

18 **MR. JOSHUA BURMAN:** This is not giving  
19 advice, just clarifying. I know 160,000, roughly, is  
20 EPA's official estimate. Just as a suggestion, that  
21 number is likely low -- considerably low. Minnesota  
22 alone -- and Minnesota's not a big state -- has about  
23 15,000.

24 When that's looked across the nation,

1 Minnesota does regulate down to a more strict level  
2 than many states. We may have a higher proportion of  
3 regulated manifest users than other states. But even  
4 so, just the population, the business population in  
5 Minnesota alone, that number is probably low -- and  
6 that -- the only point I wanted to make.

7 **MR. SCOTT CHRISTIAN:** Am I allowed to  
8 ask a question. It's just a clarifying question.

9 **MR. BARNES JOHNSON:** Sure.

10 **MR. SCOTT CHRISTIAN:** With Minnesota's  
11 handlers, are all of Minnesota's handlers in RCRAInfo?  
12 Or are they a mix? I know some states are a mix.

13 **MR. JOSHUA BURMAN:** This is a topic  
14 that I think we were -- I was planning to delve into  
15 very in depth either tomorrow or Thursday.

16 **MR. SCOTT CHRISTIAN:** Excellent.

17 **MR. JOSHUA BURMAN:** The interaction of  
18 RCRAInfo and the e-Manifest system I think is an area  
19 that that is well within one of the charge questions  
20 to the Board and I think we do want to look at very  
21 closely.

22 **MR. BARNES JOHNSON:** Yeah, Cindy,  
23 please.

24 **MS. CYNTHIA WALCZAK:** It's Cindy

1 Walczak.

2 So CESQGs are not required to get an  
3 EPA ID number. So CSQGs aren't part of the 160,000?

4 **MR. SCOTT CHRISTIAN:** That is correct,  
5 and that's why I asked my clarifying question.

6 **MR. JOSHUA BURMAN:** Joshua Burman. It  
7 depends on the state. In many states they are.

8 **MS. CYNTHIA WALCZAK:** Right. And many  
9 volunteer as well. Many will get an EPA ID even  
10 though they don't need it.

11 If they've chosen to get an -- if they  
12 are -- if they've gotten an EPA ID, you're capturing  
13 them. Is that correct?

14 **MR. SCOTT CHRISTIAN:** If they have an  
15 EPA ID, we are. Part of my demo will go over this for  
16 a little bit. But it is a question that we as a  
17 development team need. Thank you.

18 **MR. MICHAEL HURLEY:** Mike Hurley,  
19 Massachusetts. In Massachusetts, we've got about  
20 12,000 VSQGs, and we make them get IDs. They have  
21 state format IDs. We'll be migrating them to federal  
22 format and trading them to RCRAInfo.

23 **MR. STEPHEN DONNELLY:** Welcome to the  
24 party.

1                   **MR. MICHAEL HURLEY:** All right.

2                   **MR. STEPHEN DONNELLY:** Fantastic. All  
3 right. So we're going to take a little step back and  
4 talk about the e-Manifest technologies that we're  
5 using to build our system.

6                   Right now, our application is hosted at  
7 the EPA-owned NCC. And we are making moves, much like  
8 every other government app, we are evaluating moving  
9 towards the public Cloud. We are in discussions  
10 within our Agency about the appropriate Cloud-hosting  
11 platform for e-Manifest.

12                   And as far as our underlying database,  
13 we currently use Oracle Reports. But we are doing our  
14 due diligence, and we are evaluating open source  
15 database technology such as Postgres or MySQL server.

16                   And continuing the open source theme,  
17 the technologies that make up e-Manifest are open  
18 source as well. We are using Apache Tomcat to deploy  
19 our code. We are developing our front end using  
20 Bootstrap.

21                   And in addition to being open source,  
22 much like our development language Java, we made an  
23 intentional decision to use, to put it bluntly, boring  
24 technology, something that is easily supportable not

1 just from a contractor standpoint, but within  
2 government. We are looking to own this application  
3 inside of the EPA, and we are looking for long term.

4 Java is about as established as you can  
5 get for development language. And we have Java  
6 experts on staff. We are actually onboarding a  
7 gentleman today with the -- who is going to be one of  
8 the Java developers for RCRAInfo. So we are looking  
9 towards owning this application, not in just the  
10 development phase, but as we move forward.

11 And another decision behind Java -- and  
12 I will discuss this a little bit later -- but it  
13 brings us back to the working prototype we released  
14 back in March with the help of GSA was built using  
15 Ruby Sinatra. And then eventually, it transferred to  
16 Ruby on Rails.

17 And while it did work for that working  
18 prototype, I will steer clear of minimum viable  
19 product. It didn't have the -- it was sort of an odd  
20 fit for what e-Manifest needs to leverage to move  
21 forward. It -- e-Manifest and our RCRAInfo  
22 application are two distinct entities that can use  
23 each other's modules in a very efficient fashion.

24 And RCRAInfo was here first and was



1 made in Java. When we were thinking about long-term  
2 supportability past March, it was a heck of a lot  
3 easier to make e-Manifest a Java application than it  
4 was to take RCRAInfo and turn it into a Ruby  
5 application. I think that there's probably some  
6 RCRAInfo people laughing right now. But we were  
7 thinking long-term supportability, and we were  
8 thinking enterprise when we moved e-Manifest from Ruby  
9 to Java.

10 This brings us to our system  
11 development timeline. Now, it's kind of far away.  
12 But I do have new contact lenses in, so I can read  
13 pretty well now.

14 One of the lines I want to draw your  
15 attention to is, if we can see -- let's get right --  
16 here we are. This is the cloud-hosting timeline  
17 because one of the things we are concerned with e-  
18 Manifest is getting our authority to operate. That is  
19 sort of security. IT security, specifically, is  
20 usually given very short shrift.

21 But it is imperative for us to have a  
22 system that is on a FedRAMP certified cloud-hosting  
23 provider. And we have that authority to operate  
24 signed off on by our Agency. So we can begin

1 accepting live data because, as you said earlier, this  
2 is all test right now. This is all fake manifest  
3 data. We need to get this ATO, and we need to get it  
4 so we can begin really stretching the legs on this  
5 application.

6 Another milestone that is -- oh --

7 **MR. ROBERT KLOPP:** Is this considered  
8 highly sensitive data or moderate? Or how serious is  
9 the ATO?

10 **MR. STEPHEN DONNELLY:** This application  
11 is low, low, low. And yeah, so we are low. There is  
12 no CBI. There is no -- there is not a lot of  
13 information. I come from a background of high, top-  
14 secret systems.

15 It's actually a little more difficult  
16 to get a low than -- everyone will understand, like,  
17 oh, high security. That's easy to understand. But  
18 when you tell someone something's low security,  
19 they're like wait a minute here. But as -- yes, this  
20 is low, low, low.

21 All right. Let's talk about some  
22 milestones coming up with e-Manifest. Scott will  
23 demonstrate in a few minutes maybe after lunch,  
24 depending on time. We have our updated front end that

1 will be ready in the end of January. So we are right  
2 here for that.

3 And we are rapidly developing e-  
4 Manifest Release 1. This is what we're going to call  
5 -- this is the meat and potatoes of the e-Manifest  
6 world. This is basically most of the hazardous waste  
7 shipments. Something like 80 percent of the hazardous  
8 waste shipments will look -- will be accounted for in  
9 Release 1.

10 This is -- the waste is just picked up  
11 by the generator, and it ends up at a TSD. There's  
12 nothing -- there's no rail shipments. There's no  
13 discrepancies. This is sort of -- this is when  
14 everything goes great. This is the e-Manifest we are  
15 going to be putting to test in February.

16 And as we move past that, we have  
17 Release 2, which is going to be that really tough nut  
18 to crack but the nut we do need to crack for system  
19 launch in spring of 2018. And this is the atypical  
20 manifests.

21 We have PCBs on there. We have -- I  
22 can't see my notes -- apologies. We have PCBs. We  
23 have rails. We have discrepancies. We have the final  
24 user fee rule. And we are going to -- that is going

1 to be the final system that will be launched in spring  
2 of 2018 that will begin accepting fees.

3 And I should note right now -- we  
4 talked about user feedback. I do want to make a quick  
5 plug. If you are interested in receiving e-Manifest  
6 development updates, please send a blank email to e-  
7 manifestdev@lists.epa.gov. For anybody listening  
8 right now, please send a blank email to e-  
9 manifestdev@epa -- at lists.epa.gov. It's in the  
10 presentation. I apologize.

11 Yeah, so there is one final piece of  
12 the Release 2 that we do need to discuss, which is the  
13 workflows through the paper-processing center. And  
14 that is dependent on the project team identifying the  
15 appropriate resources to stand up a paper capture  
16 operation and put those services in place. So when  
17 the data is transmitted from the paper-processing  
18 center to the e-Manifest application, everything goes  
19 smoothly. That's one of the final tricks we'll be  
20 pulling out of our hat.

21 Before we -- we're going to move on to  
22 some questions. And we are going to have a system  
23 demonstration later. We can discuss registration. We  
24 can discuss CROMERR. We can discuss some other issues

1 with the application. We're going to move on to some  
2 questions.

3 I do want to skip ahead one slide to  
4 show you what e-Manifest is going to be like when we  
5 launch it. We're launching with the hybrid approach.

6 In brief, we can't launch fully  
7 electronic. We had that in the rule that we were  
8 going to launch fully electronic, but we walk that  
9 back because of conversations and input from our  
10 industry and because of issues with the electronic  
11 signature piece.

12 **MR. BARNES JOHNSON:** Steve, can I just  
13 interrupt you for --

14 **MR. STEPHEN DONNELLY:** Yes.

15 **MR. BARNES JOHNSON:** Could you explain  
16 to the committee what you mean by this term fully  
17 electronic?

18 **MR. STEPHEN DONNELLY:** Yeah.

19 **MR. BARNES JOHNSON:** I think you need  
20 to explain what we're talking about here.

21 **MR. STEPHEN DONNELLY:** Oh, absolutely.  
22 Well, Scott, do you want to take this?

23 **MR. SCOTT CHRISTIAN:** Sure. A fully  
24 electronic manifest is a manifest that starts with a

1 generator or a generator signs electronically.  
2 Transporters -- transporter or transporters -- sign  
3 electronically. And finally, the TSDF signs  
4 electronically. That's a fully electronic manifest.  
5 That involves all of those parties and all of those  
6 individuals in those parties having electronic access.

7 And that's what Steve means by at -- on  
8 day one -- it -- we're -- the reason we're doing this  
9 a year in advance trying to get folks in is because we  
10 know, you know, from experience at the Agency getting  
11 everybody in takes times. It takes more than a 90-day  
12 go to final window. But even a year, getting 160,000  
13 different companies and their users on is a tough  
14 sell. So that's what we mean by fully electronic.

15 Now, they can still be electronic in  
16 that it starts papers and ends electronic. So once a  
17 TSDF gets it, they can put it in. And even the  
18 generator or broker can start it electronic, print it  
19 to paper. That way the transporters and even the  
20 generator if it's in a broker scenario can sign on  
21 paper. It gets to the TSDF, and then that manifest  
22 can be completed or end signed electronically or  
23 inputted.

24 **MR. JOSHUA BURMAN:** Clarification

1 questions. Joshua Burman.

2 Are you talking that solely for testing  
3 reasons? Or are you talking initial launch of the  
4 live system as that as your foreseen scenario at this  
5 point?

6 **MR. SCOTT CHRISTIAN:** I'll let Steve  
7 correct me if I'm wrong. But it's the initial when we  
8 go live, the hybrid will be available.

9 **MR. STEPHEN DONNELLY:** Yes. Realities  
10 of electronic signature and timeline, we do -- the  
11 hybrid approach is the best option we have to launch a  
12 system. And we could discuss and put up the slide,  
13 sort of the -- a very high-level look at how the  
14 hybrid will look if you want to look at the board.

15 But yeah, so this is -- the only -- one  
16 of the CROMERR requirements is -- or the DOT --  
17 there's a DOT requirement to have a paper copy of the  
18 shipment with you at all times. And there is a --  
19 there's a few CROMERR requirements that we are still  
20 ironing out to -- that sort of keeps us from going  
21 fully electronic, like Scott said earlier.

22 We developed the hybrid approach where,  
23 essentially, the paper manifest is the copy of record  
24 until it gets to the TSD. Then it is electronically

1 signed and uploaded into e-Manifest. And that is  
2 where it becomes the copy of record.

3 It stays on paper until it hits the  
4 TSD. It is entered into the -- entered into a  
5 computer. And it is -- the button is hit -- the  
6 Submit button is hit. The electronic signature is  
7 performed, and then it becomes a completed manifest.

8 That is how we are launching the  
9 system.

10 **MS. CYNTHIA WALCZAK:** Given the DOT  
11 requirement for paper copy and the issues you're  
12 having with verified signatures, do you even have a  
13 vision for a fully electronic system?

14 **MR. SCOTT CHRISTIAN:** We do. We have a  
15 couple different options. So the -- we would use our  
16 standard EPA signature option as an option for  
17 companies to use if they get registered with EPA.

18 Other options that we are looking into  
19 -- and that was in the previous slide, but we couldn't  
20 see it because it was, you know, a couple millimeters  
21 high -- is allowing companies to use third parties  
22 that they trust or -- and even already used.

23 We've heard from a couple companies --  
24 and I'm not going to say the name of the products that



1 they buy -- but you've all used them on, you know,  
2 purchasing your house and things like that and  
3 allowing a company to use those.

4 And then there's also -- in our One  
5 Year Rule, we talked about digitized signatures, which  
6 is a pad and pen kind of like what UPS and FedEx use.  
7 Those would be -- the industry folks would need to  
8 purchase those and implement those in their own  
9 systems. We would need to work with those companies.

10 And so -- and companies that are  
11 interested in those, we have to go through a process  
12 to get those approved in our Agency. So we would need  
13 to work with those companies early and soon.

14 **MS. CYNTHIA WALCZAK:** So a fully  
15 electronic system really isn't on the table right now.  
16 Is that accurate?

17 **MR. STEPHEN DONNELLY:** Yeah. It is  
18 what we're looking forward post-launch. We have a  
19 path forward to launch the system that will save  
20 industry and business and states a considerable amount  
21 of time. However, it is the fully electronic remains  
22 something we will build towards in the future  
23 iterations of e-Manifest.

24 **MS. CYNTHIA WALCZAK:** Thank you.

1                   **MR. ROBERT KLOPP:** This is Rob Klopp.  
2                   I have sort of two questions. One is, in the previous  
3                   picture where you show the hybrid, I'm sort of  
4                   interested -- and this is really me not totally  
5                   understanding the process. But who -- what's the  
6                   value proposition of this picture? Who is it that  
7                   gets any value if the main part of the process is  
8                   still paper-based using the old paper thing? What's  
9                   the value?

10                                I mean, it could be the answer is just  
11                   the necessary early step to get there. But I don't  
12                   see who would pay for this.

13                               **MR. SCOTT CHRISTIAN:** So one big value  
14                   piece is at the end of the process, everything has to  
15                   be mailed back to the generator and mailed to the  
16                   state or now mailed to the federal government. So  
17                   that's two pieces of mail that you have to do.

18                                You have to pay someone to take that  
19                   manifest, fold it up, put it in an envelope and mail  
20                   it. One to the generator, and then they can bulk mail  
21                   it to the EPA. But they still have to take another  
22                   copy and mail it there.

23                                And so there is a value to that. And  
24                   if you're doing tens of thousands to hundreds of

1 thousands of manifests a year, it adds up in mailing  
2 costs, envelope costs, processing time.

3 **MR. ROBERT KLOPP:** Okay. I get that.  
4 And then the second question is can you talk a little  
5 bit about what your rollout plan is. And what I mean  
6 by that is, you know, I could imagine that you might  
7 pick, you know, one broker or one generator who has a  
8 limited number of transporters, who has a limited  
9 number of TSDFs that they deliver to so that there's a  
10 kind of a small and controlled universe of people that  
11 would use this thing end-to-end. And then you would  
12 slowly, incrementally expand the universe.

13 I mean, how do you -- what's your  
14 strategy for rolling this out so that it's not just a  
15 giant big bang?

16 **MR. SCOTT CHRISTIAN:** Excellent  
17 question. Like I said a few times today, the whole --  
18 in February, we'll start the test phase. And getting  
19 a few small groups of TSDFs, brokers and -- on board  
20 to look at the services, get them going. And then  
21 starting in June, it'll be open for everyone to at  
22 least to in a pre-production environment and start  
23 gathering and getting more and more facilities in  
24 develop so that they can start talking to us in that

1 realm. Once we go to signature, then we'll have an  
2 estimate about --

3 **MR. ROBERT KLOPP:** Sorry. Let me ask  
4 you a question about that. So when you make it  
5 available to everybody --

6 **MR. SCOTT CHRISTIAN:** Mm-hmm.

7 **MR. ROBERT KLOPP:** -- it's truly  
8 available to everybody. You could theoretically have  
9 everybody just bombard you as opposed to -- right?  
10 That -- is that really what you're saying?

11 **MR. SCOTT CHRISTIAN:** In its theory, if  
12 people don't start in June, if, you know, like Steve  
13 was saying with the charge questions on how we can  
14 what -- get better outreach in getting on, we're doing  
15 a year of -- almost a year of allowing everybody to  
16 slowly get into the system log --

17 **MR. STEPHEN DONNELLY:** Yeah. So I cut  
18 you off there, Scott.

19 Yeah, so if we look up here, we're  
20 going to have Release 1 for limited user testing in  
21 February, and then it will be in pre-prod in June of  
22 '17.

23 **MR. ROBERT KLOPP:** And pre-prod is  
24 everybody?

1                   **MR. STEPHEN DONNELLY:** Yes.

2                   **MR. ROBERT KLOPP:** That's scary.

3                   **MR. STEPHEN DONNELLY:** Well, welcome to  
4 the FACIA. And then we're going to have -- Release 2  
5 is going to be in user testing -- what is that? Is  
6 that in -- I can't see that. When is Release 2 going  
7 into user testing?

8                   Let me bring up -- it's on a different  
9 slide in bigger terms.

10                   Let's see. Here we go. Okay. Yeah,  
11 so Release 2 will be in February of 2018. And then  
12 June of 2018 will be a full system launch.

13                   So there's going to be -- we have 18  
14 months and change until system launch in June of 2018.  
15 And we intend to give, based on the recommendations of  
16 the Advisory Board of who is the user community, a  
17 substantial amount of time to get in and roll up their  
18 sleeves and get involved with this system. That is  
19 our goal.

20                   **MR. ROBERT KLOPP:** So this is Rob.  
21 Then I would -- let me follow on and ask. In that  
22 sort of 18-month period, I would assume that in an  
23 Agile thing, you're constantly spinning and adding new  
24 features and functionality every two weeks. Or you

1 might -- I don't know if you're going to -- what your  
2 rollout schedule is beyond these releases. But I  
3 mean, it's not like you're just stagnant.

4           So how do you -- I guess, again, I'm  
5 just sort of interested as a matter of strategy how  
6 you sort of see this thing. I mean, what's the  
7 experience of a -- you know, an end facility that,  
8 basically, is a user of this? They deploy it, and  
9 then a month later they get more features, then a  
10 month late they get more?

11           I'm just sort of interested in what you  
12 think the rollout looks like.

13           **MR. SCOTT CHRISTIAN:** Yeah. So the --  
14 in test, we will continue doing that. So folks will  
15 be engaging us in the test environment. We'll  
16 continue to see updates.

17           The pre-production will stop getting  
18 new code for about six months. And then after that  
19 will be another release. And then those folks at  
20 Phase 2 will get that.

21           And then as we continue iterating --  
22 well, we continue iterating test. And we really  
23 appreciate those of you who volunteered to help us out  
24 and test because we'll continue getting. But there

1 will be more of, like, a six-month release cycle.

2 **MR. JOSHUA BURMAN:** This Joshua Burman.  
3 Clarification question. After the early 2017 initial  
4 trial, or during that 18-month trial, could you  
5 clarify whether EPA is looking at, essentially,  
6 receiving data -- compiled and extracted manifest data  
7 from TSDFs and simply warehousing it? Or are you  
8 during that time also looking at and planning to or  
9 are you now testing the integration and coordination  
10 of that data with RCRAInfo -- essentially, the handler  
11 source data and other data fields?

12 **MR. SCOTT CHRISTIAN:** And that I will  
13 be going over in the demo. We -- it'll make more  
14 sense if I can explain it out. But it's --

15 **MR. JOSHUA BURMAN:** Sorry if I asked  
16 too quickly.

17 **MR. SCOTT CHRISTIAN:** No, no. That's a  
18 great question.

19 **MR. JOSHUA BURMAN:** We'll get to that,  
20 I guess.

21 **MR. STEPHEN DONNELLY:** Just a matter of  
22 housekeeping, Fred. It looks like we're at noon. So  
23 what time are we going to? Because we are -- I think  
24 we have a few more slides up until the demonstration,

1 or this could be a good point to break right now.

2 What do you ...

3 **DR. FRED JENKINS:** Well, how many more  
4 -- how long do you have, Steve?

5 **MR. STEPHEN DONNELLY:** Let's see.  
6 Where are we? Hybrid -- 15 minutes if we keep the  
7 questions to --

8 **DR. FRED JENKINS:** All right. Let's  
9 break now.

10 **MR. STEPHEN DONNELLY:** Yeah. That's a  
11 good call. Yeah, that's right now.

12 **DR. FRED JENKINS:** All right. We'll  
13 break now. We're going to start back at 1:00. And so  
14 that's not much time in this area.

15 I'm not endorsing any particular food  
16 establishments, but there is the underground caddy --  
17 I think I'm oriented correctly. Going north this way  
18 -- that way I believe is north -- caddy-corner, you  
19 can go to the underground. There's a food court  
20 there. That's one option. You can go -- okay. You  
21 can also get to the underground through the elevator  
22 directly from the hotel. That's what I would  
23 recommend.

24 If you do want to walk outside and get



1 fresh air, there's Crystal Drive down here. I think  
2 23rd Street is probably a little too far for -- to be  
3 back in an hour. So anyway, yeah.

4 (Luncheon recess.)

5 **DR. FRED JENKINS:** Good afternoon,  
6 everyone, and welcome back from our lunch. I just  
7 want to make a really quick announcement. This is a  
8 reminder. Unfortunately, we aren't serving food here  
9 at this meeting. And I've gotten a couple of  
10 complaints of people taking food from other meetings.  
11 So please be mindful that that's not our food. An  
12 easy mistake to make. I hated to be the messenger for  
13 that.

14 Welcome back from lunch. This will  
15 start our second half of Day 1. I'm going to turn it  
16 over to our Chair, Barnes Johnson.

17 **MR. BARNES JOHNSON:** Thanks, Fred. So  
18 just to let folks know what we're going to be doing  
19 for this afternoon, we are going to, I'm told by Fred,  
20 we're going to wrap at 3:30 today. And we will pick  
21 it up tomorrow morning. And based on the amount of  
22 public comments that we have so far, which is not much  
23 to my understanding. We have two public commenters so  
24 far. We'll have plenty of time to continue this

1 conversation tomorrow morning.

2 All right. Steve, back to you.

3 **MR. STEPHEN DONNELLY:** Welcome back,  
4 everybody. So this will sort of layout the remainder  
5 of the system development piece for you all before we  
6 dive into it. It's going to be a) an efficient look  
7 at the system. We're going to discuss the hybrid  
8 approach. We're going to discuss how we're  
9 incorporating into the RCRAInfo.

10 Universe; we're going to have a quick  
11 discussion about CROMERR, and then we're going to have  
12 a demo. Following the demo, we're going to have just  
13 a little piece, a little more depth about the paper  
14 processing and help desk pieces that we're looking to  
15 deploy when the system launches. So just to reiterate  
16 what the Chair said, we're going to try and move  
17 through these as fast as possible. So of course,  
18 we'll listen to questions and comments, but we'll also  
19 have time tomorrow.

20 Okay. As we discussed before lunch, we  
21 are launching with the hybrid manifest approach. The  
22 hybrid paper and electronic manifest. And this is not  
23 to say the be all end all of e-Manifest. As the  
24 system is to be supported and as we move forward, we

1 will be making changes to the system. We're becoming  
2 more electronic as more users are brought into the  
3 application. But as the reality of the situation  
4 presents ourselves, we need to launch a system in  
5 spring 2018 and the hybrid solution we feel is a very  
6 good way of -- what do they call that? -- threading  
7 the needle of our user's needs, our information  
8 technology system we're developing and it will leave  
9 us in a great place.

10           Once user fees go in and we can start  
11 enhancing the system, how we will get to fully  
12 electronic. But as I said earlier, one of the reasons  
13 we chose job in our technology stack was because of  
14 the support-ability within government. So we will be  
15 at no risk to losing that expertise we have in-house  
16 to enhance e-Manifest as we move forward. So that is  
17 one of the reasons that in our branch, we will have  
18 those job experts.

19           All right. Let's talk about the  
20 hybrid. All right. This is the paperless manifest is  
21 a goal of the system. Like, for example, the DOT  
22 requires that we keep that copy with us throughout the  
23 life of a system. And nobody really feels like paper  
24 is going anywhere when it come with the shipment of

1 hazardous waste because it's good to have in case of  
2 an emergency. If a truck tips over on the side of the  
3 road, the emergency responders know exactly where to  
4 look to find out what exactly is on that shipment. So  
5 that's not going anywhere.

6 We have that to leverage. And it's  
7 also understood that there are places where the  
8 internet does not cover. I know that's crazy to think  
9 in these days, but there's a lot of TSDs and a lot of  
10 sites we visited out in Indiana and throughout the  
11 country. There are places in Virginia where there's  
12 no cellphone coverage. And we have to be able to  
13 address the needs of those remote handler locations.  
14 And it's also understood that paper is a great back-up  
15 to the system and commerce. In case there is a power  
16 outage or an e-Manifest system goes down, there's that  
17 paper as a backup.

18 And EPA, one of the issues we work out  
19 with the user fee rule and the system development is  
20 whether or not the electronic manifest can supplement  
21 or coexist with that manifest. In the one-year rule  
22 we concluded that the burden of processing, mixed or  
23 hybrid manifest in this matter would offset any  
24 realized savings. However, in the fee rule, we walk

1 that approach back. EPA was concerned with the  
2 significant implementation challenges of going from a  
3 paper system to a fully electronic system.

4 Therefore, in the fee rule, we proposed  
5 comment on an approach that relaxed that all or  
6 nothing stance and we have the hybrid manifest launch  
7 for the system. This is how it works. Generators  
8 could choose to complete and sign a paper manifest and  
9 obtain the ink signature of the initial transporter at  
10 the time of the transporter acknowledges its receipt.

11 This is at the person in the truck  
12 drives to the generator and they pick up the manifest  
13 and they sign it. And they will retain this ink-  
14 signed paper copy and then go about their route. The  
15 transporters in TDS would execute the manifest with  
16 electronic signature. That means when the transporter  
17 gets to the facility to dispose of the waste or treat  
18 or store, that signature would be captured  
19 electronically and the transaction would end.

20 And then the final electronically  
21 signed copy at the receiving facility would be  
22 submitted to the system and that would be a copy of  
23 record. And this is the tour of the hybrid approach.

24 **MR. THOMAS BAKER:** To go back to this

1 slide. This is Tom Baker. Could you just clarify  
2 that point, the second to the last bullet? It says  
3 transporters and TSDs would execute the manifest. I  
4 think you meant to say just the TSDFs would execute  
5 the manifest signature electronically. That the  
6 transporters would be signed paper.

7 **MR. STEPHEN DONNELLY:** So that is one  
8 of the things we'll be discussing over the next three  
9 days. As proposed in the rule, it was transports in  
10 TSDFs, we received a bunch of comment and we'll  
11 discuss that. The current demo assumes the TSDF will  
12 do it and then will iterate out through there, but  
13 it's part of what we'll be discussing over the next  
14 couple of days.

15 **MR. THOMAS BAKER:** Again, so the hybrid  
16 approach would be paper up to the TSDF; the TSDF would  
17 sign electronically, hopefully, for all the  
18 transporters signing before that point would be paper  
19 in a hybrid approach?

20 **MR. STEPHEN DONNELLY:** That is an  
21 option of a way we can go and final rule.

22 **MR. THOMAS BAKER:** Okay.

23 **MR. STEPHEN DONNELLY:** This is what was  
24 proposed.

1                   **MR. THOMAS BAKER:** Okay. Thank you.

2                   **MR. SCOTT CHRISTIAN:** And a lot of this  
3 chain also assumes that there's a lot of value that  
4 we're not talking about when we talk about the hybrid  
5 manifest. This is still a significant burden  
6 reduction on all the parts of the community involved.

7                   For example, in talking with industry,  
8 TSDs and brokers and third parties, they prepare  
9 manifest for generators in a lot of cases. So yes,  
10 the paper copy would "originate" -- for the  
11 transcriber, I just did air quotes. Their paper copy  
12 would originate at the generator, but that information  
13 would arrive at the generator electronically.

14                   They would just simply be printing it  
15 out and having a transporter sign for it. So there  
16 would be a lot of running around, looking for things  
17 to sign and oh my God is this borrowing this? It  
18 would allow changes up to the second of pick up. So  
19 there's still a significant burden reduction and a lot  
20 of efficiencies in the hybrid manifest approach. Is  
21 it the ideal e-Manifest system? No. But it is very,  
22 very good and it will get us to a point where these  
23 can come in and we can continue iterating out and  
24 building more capability into the system.

1                   **MR. JOSHUA BURMAN:** Question. Please  
2 clarify. You're proposing that the blank document, a  
3 blank data set -- let's put it in actual terms --  
4 including handler data, waste data, volume data,  
5 containers, the required HMR data, would your  
6 envisioning be sent to the generator electronically  
7 and printed and wet ink signed by the generator to  
8 initiate the transport chain; is that correct?

9                   **MR. SCOTT CHRISTIAN:** That was one of  
10 the proposed options. Another option is --

11                   **MR. BARNES JOHNSON:** Scott, make sure  
12 you get that mic close to you so folks can hear.

13                   **MR. SCOTT CHRISTIAN:** Another option is  
14 the TSDf brings the printed manifest or the broker  
15 sends a printed manifest to the generator and the  
16 generator signs in ink, and keeps their copy when the  
17 transporter leaves.

18                   **MR. THOMAS BAKER:** Without crossing the  
19 line into recommendations, just to further clarify,  
20 how does the EPA propose to ensure that multiple  
21 copies -- not only are multiple copies generated, if  
22 the generator or at the site of generation that  
23 essentially, the origin of the waste transport, if a  
24 manifest is printed out; one, to ensure that multiple



1 copies are prepared for each handler in the chain.  
2 And two, how does EPA propose to transfer signatures  
3 among those multiple copies when you're talking wet  
4 ink? The pre-printed carbon copy form we use today is  
5 admittedly awkward and several decades obsolete, but  
6 it does automatically transfer wet ink signatures.  
7 And we haven't heard what method EPA is proposing to  
8 handle that.

9 **MR. STEPHEN DONNELLY:** Well, we can go  
10 into this when we do the system demonstration. This  
11 will make a lot of thing more clear.

12 **MR. THOMAS BAKER:** This would be  
13 outside the e-Manifest system, though, if you're  
14 talking about initiating a paper manifest that is not  
15 in the system. All you're talking about is a dataset  
16 that's coming from the system, but everything else is  
17 paper up to the TSDf. So these are non-system  
18 questions.

19 **MR. STEPHEN DONNELLY:** Yeah. We can  
20 circle back to this at a later time. We have some  
21 good stuff to get back onto so we can --

22 All right. So before we move on, we're  
23 going to walk through what our updated UI web  
24 application is. I want to talk about how e-Manifest

1 fits into the larger RCRAInfo universe. So RCRAInfo  
2 is the system of record for all hazardous waste  
3 captured under the Resource Conservation and Recovery  
4 Act.

5 And initially, e-Manifest and RCRAInfo  
6 were seen as two discrete systems; however, the way e-  
7 Manifest is being built, and the way RCRAInfo is being  
8 built, they share a lot of similarities. They share a  
9 very similar user base. They share the same similar  
10 waste streams and they share the relationships with  
11 the states.

12 Moving past what we did in March, it  
13 made sense to see just what we were building e-  
14 Manifest wise. How can this relate to our RCRAInfo  
15 application? How could we best leverage what is being  
16 built with the RCRAInfo Version 6 upgrade and what is  
17 being built with the initial e-Manifest system  
18 capability.

19 There were some long talks in between  
20 our development team, the e-Manifest development team  
21 and the RCRAInfo development team. And the decision  
22 was made to implement both applications as individual  
23 modules that will leverage off each other's newly  
24 developed functionality. We will be -- e-Manifest

1 will be using RCRAInfo's My RCRA ID. They will be  
2 using the handler ID. They will be helping to manage  
3 the e-Manifest user base as a particular area to look  
4 at a significant time and cost savings for the e-  
5 Manifest system development.

6           There's quite a lot being done that is  
7 unique to e-Manifest, but the direction we were  
8 pointed at with the sole source acquisition and some  
9 of the work we had with ATNF was going to have us  
10 essentially do work that was already being done by  
11 people in the same office with us. It made good  
12 business sense. It made very good -- made for good IT  
13 as well to have these two development teams, even  
14 though they were being paid by very different and very  
15 distinct funding streams that they should talk with  
16 each other and gauge and see what each other could  
17 leverage off of one another. That's been one of the  
18 big wins.

19           And it really won't go on a scoreboard  
20 anywhere, but when e-Manifest is launched and when  
21 RCRAInfo Version 6 comes out, you'll be able to see  
22 how e-Manifest is a module within this industry  
23 application that we're building. It would be biennial  
24 report; it will have handler; it will My RCRA ID; it

1 will have RCRAInfo information. It'll be encased in  
2 one beautiful application. Almost. But with very  
3 distinct modules and very distinct funding streams. I  
4 have to reiterate that.

5 **MR. JOSHUA BURMAN:** Clarification  
6 question. Obviously, the input/output will be  
7 different. The uses of the data will be different.  
8 But I just want to be sure I'm understanding, marrying  
9 the data or sharing a common data source between the  
10 two, correct? Is that the architecture here?

11 **MR. SCOTT CHRISTIAN:** Yeah. We're  
12 looking at the same database.

13 **MR. STEPHEN DONNELLY:** And both  
14 applications are being built, database agnostic or  
15 database neutral, however you'd like to say so. We  
16 won't be tied into a particular database. If we do  
17 decide open source or we decide oracle or wherever  
18 we'd like to go, we will have the data and whatever  
19 database makes the most sense for the enterprise will  
20 be how we do things. And with this comes the Cloud.  
21 We discussed this earlier, so there's not much to say  
22 here other than we have performed a comprehensive  
23 analysis of the Cloud market. And we are in the  
24 middle of working alongside of our CIO shop, the

1 Office of Environmental Information to find a place to  
2 house e-Manifest that will be fed-rep certified,  
3 obviously. And will provide scaling capabilities for  
4 our growing user base because now we'll be starting  
5 out with x number. But as electronic manifesting  
6 becomes more popular, we'll need to grow in scale and  
7 our users will have some demands about up time and  
8 there will be some -- it'll give us a lot more freedom  
9 to build the system and not have to worry about  
10 managing the backend. That's one of the pushes to the  
11 Cloud.

12 All right. The final piece before we  
13 discuss the slides on the application, is CROMERR,  
14 which is one of the -- it's our agency's electronic  
15 reporting requirements. This governs the electronic  
16 signature on e-Manifest. And this is a criteria we  
17 have for establishing the copy of record. And this is  
18 not OLEM's product, this is the Office of  
19 Environmental Enforcement. And we have their experts  
20 on board with our development team.

21 When we discuss electronic signatures  
22 and rolling out electronic signatures, particularly  
23 for the hybrid manifest and anything moving forward,  
24 everything we do is with them, alongside, as providing

1 their advice on navigating their CROMERR checklist  
2 because as Rich said earlier and will say again, there  
3 are some very stringent reporting requirements that  
4 they have.

5 And this is something that our user  
6 community is familiar with. This is something that  
7 here at EPA we're familiar with. This is, I'm not  
8 going to say hurdle, but this is something to manage  
9 and work along to so we can find a way, and we have  
10 found a way that meets the significant data integrity  
11 and signature integrity guidelines we have as an  
12 agency with the business realities of manifesting.  
13 We're not going to have -- we don't want anybody  
14 standing around a loading dock for, you know, 20, 30  
15 minutes, performing all these background check  
16 documents. No, we want something that will address  
17 the kinetic nature of this industry. So we are  
18 working and we will continue to work towards making  
19 this as painless and as efficient as possible while  
20 keeping the copy of record and enforcement individuals  
21 apprised and happy with the direction we're going in.

22 Okay. Scott is going to take us  
23 through a demonstration of e-Manifest for at least  
24 one. The demo slides are coming on. And we'll post

1 these online as well.

2 **MR. SCOTT CHRISTIAN:** While we're  
3 waiting for those to come up, this will be a bit  
4 quicker than I expected because I found out I can't  
5 zoom in on the slides. When you get those slides  
6 later, you'll be able to see. And I'll be here all  
7 week if you have questions.

8 The e-Manifest demo for the FACIA, one  
9 of the things -- and this is for, I guess, more of  
10 technical folks in the room. As we've said all along  
11 since we've started, we're services first. And this  
12 is our swagger page. I probably should've had a  
13 couple of computers with lines toward the e-Manifest  
14 system showing, like I said earlier, we want to  
15 encourage people to continue to use their own systems,  
16 what their users are currently looking at to  
17 communicate with us.

18 We realize not everybody is going to do  
19 that and that's why we're in the next thing. But for  
20 going through these services first, the first round of  
21 testing, which is that February time period, like I  
22 said earlier, we've also made some changes from the  
23 March 2016 delivery. We separated out data and image  
24 services into two different post services. Main

1 reason is efficiency. But also, if you're using the  
2 image services, you're talking with one. If you're  
3 using data, you talk with another. And also where  
4 we're putting in to validate --

5 **MR. ROBERT KLOPP:** Real quick question.  
6 When you do an update of an image, do you save a  
7 version or do you just do an update --

8 **MR. SCOTT CHRISTIAN:** Yes.

9 **MR. ROBERT KLOPP:** Okay.

10 **MR. SCOTT CHRISTIAN:** Yes, we save a  
11 version. The next bullet, what Robert was getting to  
12 is we are updated. We replaced with a PUT over a  
13 PATCH. Now, as I said this is more for the more  
14 technical folks in the audience. They are hub verbs.  
15 Basically, in the March 2016 delivery, we had a very  
16 elegant solution where you could pick the field you  
17 wanted to edit and edit that field.

18 Well, what we realized was like, that's  
19 a lot of work for our users. So we went with the PUT  
20 over the PATCH, so you're sending us all the  
21 information. And then on the backend, we can decipher  
22 what changed by comparing the two data streams. So we  
23 did that to be easier on the user.

24 Next, our signature and validate are



1 now part of our save and update services. So when you  
2 submit a manifest to us, I'm going to get into this a  
3 little bit, there are statuses. And this is building  
4 in for when we do go fully electronic. Depending on  
5 your status, you will be prompted to either sign or  
6 validate the manifest. And as Steve has repeated,  
7 we're now written in java.

8 The servers for manifest data that are  
9 going in this first round of testing for February will  
10 save the update on the "get." And we look forward to  
11 working with our users on the search. Our state  
12 design team, state and regional design team, as I've  
13 already said, they are very interested in the ability  
14 to search on a facility, as well as searching on a  
15 date range and pulling the data down. So those are in  
16 there.

17 We want to understand, from our user  
18 base, what you do on the search. The "get" is  
19 basically pulling manifest ID by manifest ID down.  
20 What you set and pulling it down, giving people the  
21 option. The services for manifest images are the  
22 same. You can pull back the image by manifest ID,  
23 submit and adding an update in images. But we're  
24 getting into our RCRA industry application. And just

1 taking a step back, we understand, like Steve said  
2 earlier, we have to build something for those folks  
3 who aren't going to be using services first.

4 We understand there are a lot of third-  
5 party service providers. There are a lot of TSDFs who  
6 have their own systems and they will continue to use  
7 those systems. We also have heard from certain states  
8 that they want to use a front-end as well. And in a  
9 few slides I'll show you what the industry sees and  
10 then there is also a similar analog to what the states  
11 and industry say. I mean, states and regency.

12 All users will go through our central  
13 data exchange. As many of you who use the central  
14 data exchange know, this is how you submit your TRI  
15 reports, verify reports, various reports. So a one-  
16 stop shop for certain users. After logging in, you'll  
17 be taken to My Sites page. We recognize some of our  
18 users will have multiple sites, and this gives those  
19 users -- there are some users that will only have one  
20 site. And going in here, once you've selected that --  
21 now this is where I wanted to do the zoom part.

22 Unfortunately, I cannot. But you see that number one  
23 at the top up there. It basically highlights a number  
24 of tabs. The site details, my RCRA ID, biannual

1 report, e-Manifest and PCB. These are the industry-  
2 phasing applications of RCRAInfo where you can submit  
3 your biannual report. You can submit manifest and  
4 look at your manifest, PCB reports and then your My  
5 RCRA ID.

6 My RCRA ID is a way you can submit your  
7 notification form. Since we're talking about e-  
8 Manifest today, we're in the e-Manifest tab. Going  
9 down, you'll notice there are two tables: in progress  
10 and received. Now, I'll get to received in a second,  
11 but in the "in progress" has, in that table it talks  
12 about -- well, right now we're going through the  
13 generator view.

14 The TSDf that that manifest is going  
15 to, the last updated date and what status it is in,  
16 whether it's a pending status, scheduled or it's in  
17 transit. And then over on the right, it's what the  
18 user, the generators can do to that manifest at this  
19 time. And then they can create a new manifest, which  
20 is that green button in the middle of the page. The  
21 received manifest is where a generator can see the  
22 manifests that are received. They are electronic  
23 copy. So instead of being mailed a copy, they can go  
24 online and see the electronic copy.

1           Looking into the manifest, you have a  
2 breadcrumb view, which allows a standard web  
3 development breadcrumb of where you've been and where  
4 you are. And then underneath it you have a status  
5 tracker of where you are. And then underneath it you  
6 have a status tracker where you are. We've clicked on  
7 create a new manifest. And you're in draft. So this  
8 is a draft manifest. You can do whatever you want to  
9 this manifest, there's no validation on the manifest  
10 like I was getting to earlier.

11           Later on I'll show you some validation.  
12 And you're creating this manifest. You're creating  
13 this in-house. It's created for you. Going down to  
14 Item No. 3, we have the ability for you to share a  
15 manifest with another user, print a manifest or find  
16 out the details about the manifest. Who is the last  
17 person who updated this manifest? When was it  
18 created?

19           The key thing about sharing, and back  
20 to CDX and user registration, is you can share with a  
21 registered user. You can also send a link to a non-  
22 registered user, but the thing is, when they log in,  
23 they'll be prompted to register with the site. And  
24 we're going to give the sites and states and regions

1 the ability to control their users.

2 You come in and you create your  
3 industry administrator and then from there, say who  
4 can access the manifest system. And so if I  
5 accidentally put in somebody's email address who isn't  
6 supposed to see it, well, the industry administrators  
7 will see that and will see that and be like, I don't  
8 recognize this person. Why is this person -- and  
9 they'll be able to find out who nominated them and go  
10 from there.

11 The print is a printable copy. And  
12 depending on what status it is on is what you can  
13 print. Once it's scheduled, you can print your copy.  
14 And then going down to four, it's just information  
15 about the status and the status that you're in and if  
16 you want to change your status if that's the reason  
17 you're here editing.

18 Number 5, you'll notice is read only.  
19 Well, you're acting as the generator. So you already  
20 know your information and we're not going to make you  
21 put it in twice. But we will allow you to change your  
22 emergency response number and your contact phone  
23 number, depending on who it is. And as a reminder,  
24 this is for people who are going on their own.

1 They're not using a third-party system. Anything you  
2 can do in your third-party system, you can do here  
3 because this frontend is using the same services  
4 you'll use.

5 **MR. ROBERT KLOPP:** One of the things, I  
6 guess, I've been thinking about since I asked the  
7 question earlier is this whole idea of whether it's  
8 FISMA low or medium or high.

9 And I guess because it impacts the way  
10 you do controls and stuff like that. One of the  
11 things I wonder is whether or not because there is  
12 going to be money tracked in this thing, once you get  
13 to the point where there's fees involved, plus the  
14 fact that there is actually hazardous materials that  
15 might be, as we mentioned earlier, of interest to  
16 terrorists organizations, whether or not in fact this  
17 is going to end up being considered to be FISMA  
18 medium. And it would impact the way you do some of  
19 these controls if you do that. I just wonder -- I  
20 guess the question I'm asking is who determined that  
21 this is low and do you want to -- is it without making  
22 a recommendation? Do you want to reconsider that?

23 **MR. STEPHEN DONNELLY:** We have a full -  
24 time security, IT security, FTE only manifest. And he

1 made the determination that it is low, low, low, but  
2 we can circle back to this.

3 **MR. SCOTT CHRISTIAN:** Going to the  
4 bottom of that, create manifest page, then the user  
5 can create a manifest page. And then the user can  
6 select from a drop down transport, the transporter  
7 they want to select if the generator knows that or the  
8 broker knows that. And then the EPA ID name of the  
9 designated facility.

10 And going into Item 3, this is the  
11 waste. This are Items 13 on the manifest. And our  
12 next slide, we're popping up with this thing called a  
13 module. It's like a pop-up within the screen. And  
14 then these we'll be able to put in their waste  
15 information. And item 14 is then below that, as well  
16 the ability to add comments. And in the next couple  
17 of screens, I'll get into what this "add comment" area  
18 means.

19 Looking at the create a new manifest,  
20 adding it all the way to the top, this function is  
21 just like before. The hazardous and materials  
22 question is marked as yes. When it prints, there's  
23 the whole, if it's non-hazardous materials, DOT on the  
24 things, it'll mark the X appropriately. After that we

1 have your DOT information. And how we've done this is  
2 we've broken down to drill downs. So if you select a  
3 DOT description, DOT ID that everything information is  
4 one row unique, then all that will populate. If it's  
5 not, then you'll be able to drill down and put in what  
6 you need.

7 And also, we give a field for  
8 additional DOT information for that waste, for that  
9 particular waste, and will auto-populate the emergency  
10 response guidebook number. Since a lot of people use  
11 those, there really isn't a space for it on the  
12 manifest, but they're important to some people, users  
13 who've let us know.

14 Up next, four five -- Cynthia.

15 **MS. CYNTHIA WALCZAK:** I'm sorry to  
16 interrupt. If you put in technical descriptors, are  
17 they going to end up in the right place? DOT  
18 prescribes iShip, so information is from very specific  
19 locations in the shipping name.

20 If you specify a particular UN ID and  
21 its particular proper shipping name, some of them will  
22 require you to put technical descriptors before your  
23 packing group and so forth.

24 **MR. SCOTT CHRISTIAN:** Correct. And



1 that's where that additional DOT information goes.

2 **MS. CYNTHIA WALCZAK:** Right. Is it  
3 going to go in the right place? Because you might  
4 have an ex number which goes in a different place than  
5 a technical -- than a chemical constituent, for  
6 example.

7 Do you know what I'm saying?

8 **MR. SCOTT CHRISTIAN:** Cool. I've seen  
9 them before, but I get where you're going.

10 **MS. CYNTHIA WALCZAK:** So not all  
11 additional DOT information goes in the same place in  
12 the shipping name.

13 **MR. SCOTT CHRISTIAN:** Got you.

14 **MS. CYNTHIA WALCZAK:** Do we get to  
15 control -- does the user control that or it just comes  
16 out at the end?

17 **MR. SCOTT CHRISTIAN:** At this time,  
18 we're still working on this, why we're going to test  
19 and this is a valid thing to look into and make sure  
20 we get --

21 **MS. CYNTHIA WALCZAK:** Right.

22 **MR. SCOTT CHRISTIAN:** We have heard  
23 from several users that the DOT information will be  
24 something that will be something they are very

1 interested in testing.

2 **MS. CYNTHIA WALCZAK:** I beg your  
3 pardon?

4 **MR. SCOTT CHRISTIAN:** They're very  
5 interested in testing, the DOT, to make sure it's  
6 right.

7 **MS. CYNTHIA WALCZAK:** Okay. Thank you.

8 **MR. SCOTT CHRISTIAN:** No, thank you.  
9 So back to yellow numbers 4, 5, 6, and 7. These  
10 correspond through Items 10-12 in the manifest, which  
11 are your type of container, your quantity and your  
12 unit of measure and the number of containers that you  
13 have. These are drop-down driven so that it's easier  
14 on that user who wants to use it.

15 Circling down, we have the BR  
16 information. This is optional at this point. Because  
17 we're not merging BR and e-Manifest at first. We will  
18 eventually get the --

19 **MR. STEPHEN DONNELLY:** Bi-annual  
20 report.

21 **MR. SCOTT CHRISTIAN:** Thank you. Bi-  
22 annual report they are. Sorry. The bi-annual report.  
23 But if you want to submit it, you can, to help you out  
24 later if you're pulling the data down or communicating

1 the data.

2           Going down, we have the bottom of this,  
3 which is the federal waste codes and then the state  
4 waste codes. In this example, this state has state  
5 waste code. If they didn't have a state waste code or  
6 the TSDF didn't have a state waste code, this section  
7 wouldn't appear; we would just see the federal waste  
8 codes. And then management method code we moved into  
9 here per user feedback from the marked release so that  
10 it's all contained.

11           Then another area of user feedback is  
12 people wanted Item 14 to be allowed to be directly  
13 referenced to the waste stream. And so if you need to  
14 put something and that goes in Item 14 and there you  
15 can. And also, additional information and additional  
16 comments. Just add a comment piece that we have in 4.  
17 We heard a lot of feedback on this one. People want  
18 to be able to put meaningful data into a manifest that  
19 is not necessarily manifest related.

20           For example, on the main manifest  
21 screen you would have a customer ID number and you  
22 would name it. Because how this works, and I  
23 should've opened it up, you have your description,  
24 customer ID number and your comment and then one, two,

1 three, four, five, six, seven.

2 For this particular, we've also  
3 received comments -- well, sometimes we have our own  
4 specific waste stream ID number that we use and we  
5 want to put that in there so that we can directly  
6 reference it. And then another comment we got was,  
7 which I didn't allude to up top was the waste line  
8 number. It was another thing that was added that  
9 people wanted to be able to refer to specifically.

10 Robert, you had a question?

11 **MR. ROBERT KLOPP:** I guess I wondered,  
12 why is the schema sort of hard and fixed? I know that  
13 there was some discussion earlier in the day about  
14 there used to be some sort of optional fields that  
15 seem to have some value that had been cut out. I just  
16 wondered why is it fixed schema and that there is not  
17 the ability for states and other people and things  
18 like that to add whatever it is they want to add or  
19 users?

20 **MR. SCOTT CHRISTIAN:** So that "add a  
21 comment" it's basically your ability to add your own  
22 fields that you want to add. So basically, you're  
23 dividing --

24 **MR. ROBERT KLOPP:** In a text string. A

1 key value pair.

2 **MR. SCOTT CHRISTIAN:** Right.

3 **MR. ROBERT KLOPP:** But what's the key?

4 **MR. SCOTT CHRISTIAN:** The key is what  
5 you define. There's a description that you put in and  
6 you can create as many of those descriptions as you  
7 want and you name it. And then the value --

8 **MR. ROBERT KLOPP:** Very cool. Right.

9 **MR. SCOTT CHRISTIAN:** And the value is  
10 what they put into it.

11 **MR. ROBERT KLOPP:** Very cool.

12 **MR. THOMAS BAKER:** Just a question. So  
13 Item 3 up there, the management method code and the  
14 current instructions for manifest completion, that's  
15 the responsibility of the TSDf to complete that field?

16 So is that a change that we're looking  
17 to with regards to this program versus --

18 **MR. SCOTT CHRISTIAN:** No, no. Thank  
19 you very much for mentioning that. Actually, getting  
20 into the weeds of our services, that validate doesn't  
21 happen until the TSDf. It's optional up until that  
22 point. If you're creating -- we've heard from some --  
23 they put the management method code before they mail  
24 it to their generator and so they won't put it on, but

1 the validation that it exists does not have until the  
2 TSDF.

3 **MR. THOMAS BAKER:** Okay. Thank you.

4 **MR. SCOTT CHRISTIAN:** No, thank you for  
5 the question. And then you can save and add more.  
6 And we come back here and this shows the -- actually,  
7 this shows Tom's question. That is at this point in  
8 the manifest, that is a valid -- because we're in the  
9 draft level. But if you notice, there's no waste  
10 codes and there's no management method codes because  
11 it has not reached the designated facility yet. And  
12 the generator can edit and delete.

13 **MR. JOSHUA BURMAN:** Question.  
14 Management method code would be validated by the TSDF,  
15 but waste codes?

16 **MR. SCOTT CHRISTIAN:** Waste codes are  
17 validated upon the scheduled --

18 **MR. JOSHUA BURMAN:** Okay. Thank you.  
19 Thank you for that clarification.

20 **MR. SCOTT CHRISTIAN:** This is still a  
21 draft manifest. Then the user would hit "save" and  
22 they're toasted to say hey, you've saved this, let  
23 them know. And from there, they can change it to  
24 pending. Now, when they change it to pending, they

1 get some required red. And if I had the ability to  
2 zoom, you'd be able to see those red stars which are  
3 standard throughout the internet. And you can't share  
4 it with another person if you haven't let them know  
5 that's shared. And then we also make sure that  
6 there's a contact phone number. If somebody shares  
7 this inadvertently with the wrong person, the person  
8 on the other end knows, why am I seeing this manifest,  
9 I can at least call somebody.

10 And after saving it, you go onto the  
11 dashboard. You'll notice pending, there is a new  
12 pending manifest on there. And where it's going is to  
13 Sebring Recycling Company. And one nice point is you  
14 can edit it or you can copy it. And you can also do  
15 this and receive a table as well. You can copy a  
16 manifest so that you can have a good starting point  
17 for future manifest going forward.

18 **MR. ROBERT KLOPP:** I'm sorry; this is  
19 probably a naïve question because I don't totally  
20 understand the business process, but when the process  
21 kicks off and I'm about to go put some waste that I've  
22 created and give it to a transporter and send it to a  
23 disposal facility, is it possible that there's several  
24 steps along the way? I would have multiple

1 transporters I could go by truck and then to train and  
2 back to truck and stuff like that?

3 And is it the originator that basically  
4 establishes the sequence of things upfront? I guess  
5 what I'm fishing for is what happens if it changes?  
6 What happens if all of sudden some transporter that  
7 wasn't in the beginning, registers themselves on this  
8 as transporting this manifest? Is that okay? Is that  
9 not okay? Is that flagged as an issue? How does that  
10 all go?

11 **MR. SCOTT CHRISTIAN:** So you brought up  
12 an excellent point, which Rich LaShier will getting to  
13 later, it's the in-transit manifest proposal that we  
14 put into the fee rule. There is a proposal that  
15 changes may happen in transit to a manifest.

16 It is an option. You will get a lot  
17 more information on that in a little bit. But the  
18 person with the ultimate responsibility for a manifest  
19 is the generator. They are allowed to hire people to  
20 help them with this process.

21 This slide, just moving along, just  
22 shows an error slide. If you hover it on that little  
23 (1), it would tell you information about your error.  
24 Going to the receiving facility. Some receiving some



1 facility has a lot to do -- a lot of it is similar in  
2 some form, but there is one kind of key piece, and  
3 it's a question that I believe Josh asked earlier that  
4 I want to get to on this. There has been four ways  
5 for the TSDf to handle a generator. And this first  
6 option is in our system and also within the services,  
7 allowing someone to say hey, I know the worker ID  
8 number, I'm sending it to you. This is my generator.

9           And if that works out, it's pre-  
10 populated for them. They're good to go. But  
11 sometimes if you're using the system, you might not  
12 know your ID number or your customer's ID number. So  
13 we give a more advanced search, standard advanced  
14 search button that you can go and that comes up in the  
15 model as well. And then from there, you can select  
16 from a list. It's not an all-encompassing -- and  
17 finally, we have the option for override. Now, one  
18 thing we have definitely heard is that not everybody  
19 is in RCRAInfo. And there is sometimes a delay.

20           So unfortunately, if there is a truck  
21 derailment, train derailment, that site doesn't have  
22 an ID, but it needs to be cleaned up and it needs to  
23 be put on manifest right away. But you've called.  
24 You've followed your regulatory requirements and

1 you've called and you've gotten an ID number. It just  
2 doesn't have anybody in the system. You can put that  
3 in and then that information will be sent to the  
4 state. And the state can work with it in their way.  
5 This is not a notification form, just to be put. It's  
6 a notification to the state, but it's not a  
7 notification form.

8 And then finally, the generator  
9 themselves can act as generator. I mean, the TSDFs  
10 themselves can act as a generator. And so we allow  
11 them to change from the read-only TSDF portion with  
12 their data is to select the TSDF and go up there.

13 Going through the receiving of  
14 manifest, when a TSDF receives a manifest, either by a  
15 paper manifest that came in or an electronic manifest,  
16 they see it, they receive it, and they initially  
17 review it. See all the things that come in and if it  
18 hasn't been added already, they can add in who signed  
19 the manifest on paper as well as the transporters.  
20 And Item 16 is for international shipments. And if  
21 there are discrepancies, they can say yes or no. And  
22 the designated -- they can sign and save the manifest.  
23 And so we have some screens in development that are  
24 coming out in the next month. One is the signature.

1           We're generally using a lot of the code  
2           that we use back in March for that because we have the  
3           CDX code to use it. And the signature for this first  
4           round, we are using standard CDX CROMERR services.  
5           And then we're also making screens for image upload.  
6           So if you're going to upload an image of a manifest or  
7           making screens around that. And then in there is  
8           information that Steve already went over with CDX and  
9           CROMERR.

10           Finally, we get to outreach. Like  
11           Steve said earlier, he likes phone calls. And so his  
12           information is at the bottom. There's also that  
13           developer's listserv he mentioned. And so if you are  
14           a developer, please give on that listserv. So as we  
15           wrap up more into the testing phase, we'll be posting  
16           more and more information, information about how to  
17           download and when the services are available.

18           **MR. JUSTIN WILSON:** I have some  
19           questions. I just don't know if this is the  
20           appropriate time. Shut me down if it's not. It's  
21           technical about what can go into that database such as  
22           currently, we're only allowed whole numbers, you know,  
23           for instance, in pounds for a particular waste. And  
24           my understanding is that is to prevent confusion from

1 a decimal point versus a comma. In my particular  
2 industry and pretty much all pharmaceutical retail  
3 industry, nicotine and some other items that are acute  
4 hazardous waste, that can cause quite a bit of a  
5 problem only being able to enter whole numbers.

6 Will decimal points less than one pound  
7 be allowed to be entered into this database for a  
8 waste stream?

9 **MR. SCOTT CHRISTIAN:** We do allow  
10 decimal points. I can't remember off the top of my  
11 head and I should know it because I've been working  
12 with it for a year and-a-half, what the degrees, the  
13 value, how far it goes down.

14 **MR. JUSTIN WILSON:** Because I've been  
15 pushing for that from when I first heard about this  
16 because there will be no confusion between a decimal  
17 point and a comma, obviously, in an electronic system.  
18 And it causes a lot of confusion among regulators  
19 where they think of a facility as a large quantity  
20 generator or CESQG. All of that is a lot of confusion  
21 for both sides. A lot of time wasted and a lot of  
22 validation just for the simple fact that we having to  
23 enter a minimum of one pound. And we may have three  
24 profiles, you know, set up with the TSDf that are all

1 acute hazardous waste.

2 We may have only generated a quarter of  
3 a pound of three different waste streams, but it looks  
4 like three pounds, and 2.2 pounds is the LQG  
5 threshold. So it's just a mess. And allowing decimal  
6 points less than one pound would resolve that. It  
7 also makes this biannual reporting which would come  
8 downstream a lot more effective as far as who owes a  
9 biannual report versus who does not and things like  
10 that.

11 I know you don't have my answer right  
12 now, but I wanted to check with that.

13 **MR. SCOTT CHRISTIAN:** We did think of  
14 going down the decimal line, but I don't remember the  
15 significant digits.

16 **MR. JUSTIN WILSON:** Okay. The other  
17 question I had is for a particular waste stream or a  
18 line on a manifest, is six waste codes, is that still  
19 a maximum allowed number of waste codes for one line?

20 **MR. SCOTT CHRISTIAN:** It's a maximum  
21 that will print, but you are allowed to put more.

22 **MR. JUSTIN WILSON:** Okay.

23 **MR. SCOTT CHRISTIAN:** We are looking  
24 for feedback as to when we should cap it off. But

1 right now it's -- in the current testing environment,  
2 it is an unlimited bound.

3 **MR. JUSTIN WILSON:** Okay.

4 **MR. SCOTT CHRISTIAN:** But in the print,  
5 it'll only print six.

6 **MR. JUSTIN WILSON:** Okay. Very good.  
7 Thank you.

8 **MS. CYNTHIA WALCZAK:** Am I right in  
9 understanding that if you don't have any EPA ID number  
10 you can't use this system?

11 **MR. SCOTT CHRISTIAN:** No, not at all.

12 **MS. CYNTHIA WALCZAK:** That's not  
13 correct. So you can leave the EPA ID field blank?

14 **MR. SCOTT CHRISTIAN:** So if you do not  
15 have an EPA number you can't log onto the system  
16 because you have to be recognized in order to log on  
17 to the system. But somebody can submit a manifest, a  
18 paper manifest with that ID number. It can be done  
19 electronically through the hybrid. And that ID number  
20 will have a manifest waiting for once that ID is in  
21 the system.

22 **MS. CYNTHIA WALCZAK:** That's not quite  
23 what I meant because there's a whole -- there's a  
24 large, in fact, universe of users that don't need EPA

1 ID numbers.

2 **MR. SCOTT CHRISTIAN:** Right.

3 **MS. CYNTHIA WALCZAK:** But they need or  
4 prefer to use -- they need manifest in that TSDFs  
5 require them to have the manifest. And typically,  
6 these smaller generators, the TSDFs are preparing it.  
7 So they can get in and prepare it, but they might be  
8 preparing for entities that do not have and do not  
9 want EPA ID numbers. Is that going to be allowed?

10 At this time, you have to have a ID  
11 number that's recognized in the system to be able to  
12 view your manifest and log on to the system. A  
13 manifest that comes to our system with an ID number  
14 that's not RCRAInfo, has to be taken because we have  
15 to take the manifest. But you can't log on to the  
16 system without being recognized. Everybody has to  
17 have a unique -- thank you.

18 **MR. JUSTIN WILSON:** Sorry, Josh.  
19 Justin Wilson. Across that line, going a little  
20 further, if me being at a corporate level with many  
21 EPA ID numbered facilities, if I wanted to go into the  
22 system, is there some type of corporate level user  
23 access where I could be an umbrella over many EPA ID  
24 numbers and maybe have a specific number I could log-

1 in with? You see what I'm saying?

2 **MR. SCOTT CHRISTIAN:** Mm-hmm.

3 **MR. JUSTIN WILSON:** Versus one facility  
4 at a time.

5 **MR. SCOTT CHRISTIAN:** And that's what I  
6 alluded to earlier with the My Site page, where you  
7 could have all those. And an industry admin can be an  
8 admin over multiple sites. And that's kind of the  
9 vision of the industry admin; it's so that a company  
10 like yours which has facilities in several towns in  
11 every state, you could have a corporate or you could  
12 have regional. And you don't have to have one admin,  
13 you can have multiple admins. And they have the  
14 ability to handle their users, handle each other. You  
15 can even have an admin down at the site level.

16 **MR. JUSTIN WILSON:** Right. Sorry.  
17 Sounds like you might've addressed that earlier.

18 **MR. SCOTT CHRISTIAN:** No, no,  
19 definitely. It's an important question and it was  
20 important for us to build that in.

21 **MR. JUSTIN WILSON:** Right. Okay.  
22 Thank you.

23 **MR. JOSHUA BURMAN:** I have several  
24 specific questions about the demo and pilot,



1 essentially. And I'm not sure if now is the best time  
2 to ask them or later on.

3 **MR. BARNES JOHNSON:** Go for it, Josh.

4 **MR. JOSHUA BURMAN:** Okay.

5 **MR. SCOTT CHRISTIAN:** Have at it.

6 **MR. JOSHUA BURMAN:** First, I don't know  
7 if we can go back on slides. If we can go back to the  
8 initial generator/handler screen. Beautiful. Thank  
9 you. No, not that one. We'll get there.

10 **MR. SCOTT CHRISTIAN:** This one?

11 **MR. JOSHUA BURMAN:** Yeah, I think  
12 that'll work. If a handler, be it a generator,  
13 transporter or TSDf enters an EPA ID number, the  
14 system that's valid in, currently, I assume, RCRAInfo  
15 is the data pile it's going to pull from at this  
16 point. So I'm trying to use my words carefully. I  
17 would normally refer to that as a database, but I'm  
18 being educated that database is a system structure and  
19 not the pile of information that's in it.

20 It's going to go to that and pull it  
21 up. Have you currently yet considered how to handle  
22 in the system or how to have the handler or user in  
23 the system handle if that data pulls incorrect?  
24 Because that happens a lot.

1                   **MR. SCOTT CHRISTIAN:** That is something  
2 we've heard. We have been working with our RCRAInfo  
3 colleagues and that is a topic on us to have the  
4 ability to go in, especially if you're on My RCRA ID  
5 state, to be able to pull in and say hey, I need to  
6 correct this information, submit a notification to  
7 their state.

8                   **MR. JOSHUA BURMAN:** So from the user  
9 perspective -- excuse me, sorry -- the handler  
10 perspective, the waste handler perspective, you'd be  
11 looking at a button over here that says if any of this  
12 were to pop over here, if any of this information is  
13 correct, stop; do not create this manifest and submit  
14 a notification. The reason I'm asking that is DOT in  
15 particular has been very clear that they do not want  
16 administrative or recordkeeping issues to preclude  
17 hazardous material transport. They want speedy  
18 transport, which may very well be appropriate in  
19 cases.

20                   We may, either the public or states or  
21 even EPA may choose to say we'd rather have waste of  
22 55-gallon drum of methyl ether def going to the  
23 appropriate facility rather than sitting on a loading  
24 dock for three weeks waiting for some form to be

1 processed by some state. And my state would be guilty  
2 of that.

3 We have an online system, but it  
4 sometimes doesn't work. And it may take some time to  
5 process a notification. Is there work around your  
6 considering to allow that shipment to progress or  
7 would you simply say the best way to handle that is  
8 with a paper manifest and we'll fix the data later?

9 **MR. SCOTT CHRISTIAN:** Now, the one  
10 thing that has been clear in our charge, nothing stops  
11 the manifest. But we do want people to be able to  
12 have the ability to correct that data. And so that's  
13 why we're in talks, talking with them to allow,  
14 especially in the EPA ID. If not, at least be able to  
15 communicate to their state, hey, we need to do this.  
16 But yes, nothing stops the manifest.

17 **MR. MICHAEL HURLEY:** Because one thing  
18 to consider, too, is if you pull up the information  
19 and it's the ID number and it's the Acme Company, not  
20 to pick on them, and it says they're on Main Street,  
21 but the pick-up location is actually on Washington  
22 Street. They've moved or used the wrong ID, you don't  
23 actually want to move that waste, even though that's a  
24 goal, because if a broker or a TSD or a transporter is

1 preparing this manifest for their customer, they're  
2 filling this out with false information and it's  
3 enforceable.

4 The bottom, as we've certified, this is  
5 accurate and complete and it's absolutely not true.  
6 So I think there does need to be a loop back that says  
7 that this information is not correct. And if that's  
8 okay, just to move the waste, there's going to be a  
9 box if someone checks that and says hey, we know this  
10 is okay; we will notify within the next 24 hours or  
11 something.

12 I mean, otherwise, it puts the  
13 generator in a weird space because somebody is  
14 offering this manifest to them saying here you go,  
15 you're good to go, it's all set. I took care of it  
16 and it's not actually complete. And they will sign it  
17 because they always do. Or the generator is putting  
18 one over on the transporter and the TSD. So, you  
19 know, that's just something to consider.

20 **MR. SCOTT CHRISTIAN:** Thank you.

21 **MR. MICHAEL HURLEY:** Thanks.

22 **MR. JOSHUA BURMAN:** A couple more  
23 questions. Looking at selecting the transporter, I  
24 know somebody else brought up the idea of multiple

1 transporters at this point in this iteration of the  
2 pilot. Is that a multiple selectable field or --

3 **MR. SCOTT CHRISTIAN:** It is. You can  
4 add another, add another, add another.

5 **MR. JOSHUA BURMAN:** Okay. Thank you.

6 **MR. SCOTT CHRISTIAN:** And within the  
7 services, obviously, you can submit in the parent  
8 trial, the transporter could keep going.

9 **MR. JOSHUA BURMAN:** Okay. Thank you.  
10 And state waste codes, at this point, are you looking  
11 at that as being manual entry or a drop down that's  
12 pulling from a data source?

13 **MR. SCOTT CHRISTIAN:** Yes. If had been  
14 able to zoom in, you'd be able to see it. It's a drop  
15 down pulling from RCRAInfo.

16 **MR. JOSHUA BURMAN:** Okay. So for the  
17 state waste codes, I apologize, Mr. Johnson, this may  
18 be moving into the recommendation area, so stop me if  
19 I am.

20 **MR. BARNES JOHNSON:** Watch it. Watch  
21 it.

22 **MR. JOSHUA BURMAN:** Stop me if I go  
23 wrong here. Has EPA considered how to compile a  
24 standardized table of state-specific waste codes?

1 Because an informal survey I've done shows that  
2 there's at least a few states with duplicative codes  
3 that are non-equal. In other words, two different  
4 states may have a state waste code that's 0001, but it  
5 stands for two different things in different states.

6 **MR. SCOTT CHRISTIAN:** Yes.

7 **MR. JOSHUA BURMAN:** So has EPA looked  
8 at how to reconcile that?

9 **MR. SCOTT CHRISTIAN:** Yes. In the  
10 services part, obviously, that's hidden to the user  
11 now. If you notice, if you remember back in the  
12 spring we had generator state, TSDf state. And that's  
13 drill down. But behind the scenes in the JSON is the  
14 state of origin. So MA, MA98.

15 **MR. MICHAEL HURLEY:** I was going to  
16 say, Steve, you can just go into Rec Review 5 in the  
17 handler. Go in and you can edit those tables with the  
18 state-specific codes. So each state should be  
19 maintaining their own set.

20 **MR. JOSHUA BURMAN:** I appreciate my  
21 colleague's statement of "should be." I honestly  
22 can't say -- I cannot guarantee that my state has been  
23 editing its codes as well as it should. But thank  
24 you. As an aside, I really commend the EPA staff for

1 thinking through that. That's one of the comments  
2 that came up from the states over the past few years  
3 that got a lot of shaking heads at some of the  
4 meetings of ooh, I'm not sure how we're going to do  
5 this. So I'm glad it was taken.

6 Next question, on the share function.  
7 At this point, are you envisioning sharing with a user  
8 that is a registered user of RCRAInfo or with an  
9 entity such as a handler that may have multiple  
10 authorized users associated with it. Is it going  
11 essentially to a person or to a handler?

12 **MR. SCOTT CHRISTIAN:** At this point, it  
13 is a person. And then that person would need to be  
14 registered if they weren't already.

15 **MR. JOSHUA BURMAN:** So at this point,  
16 any handler using this pilot would need to know the  
17 specific contact at the next step in the chain to  
18 share with them?

19 **MR. JOSHUA BURMAN:** No, no. That share  
20 function is completely separate. If you want to share  
21 with somebody outside of the share -- if I put on a  
22 transporter on that thing, that transporter, at least  
23 their admin and how they want to do their  
24 notifications to people of how they set their

1 notifications, that they will get blasted. So that  
2 part, the handler part is that this is somebody  
3 outside that chain. Let's say a bankruptcy lawyer.

4 **MR. JOSHUA BURMAN:** Okay. I apologize;  
5 I was misunderstanding the share, but I'm glad I asked  
6 the question to clarify that the share is an  
7 additional function to say I want to cc somebody else,  
8 essentially. Okay. Thank you.

9 **MR. SCOTT CHRISTIAN:** Or invite a user  
10 who might be let's say, new users coming onboard.  
11 You're not the admin because your company does admin  
12 at a corporate level, but you know this person you're  
13 hiring to work on the loading dock is coming on. You  
14 send them an email and they can then go through your  
15 internal process.

16 **MR. JOSHUA BURMAN:** Excellent. Thank  
17 you. That does clarify that. And finally, on the  
18 image upload, you just touched on that very briefly.  
19 Is that a piece of data that then is going to be tied  
20 to the rest of this data or assigned meta data based  
21 on the e-Manifest or is it a separate track?

22 **MR. SCOTT CHRISTIAN:** So when you  
23 submit a manifest image to EPA, you will be sending us  
24 one manifest in a pdf and it'll be Bay 64 encoded,



1 which basically is a big giant tech screen. Tech  
2 string, not screen. And you can send it through the  
3 services. You'll be able to see it.

4 Now, there will be metadata like the  
5 manifest ID number, as well as the TSD receiving  
6 contact so that if there is something that our paper  
7 processing center can't see or understand or if it's a  
8 blank screen, we know who to contact for this specific  
9 manifest. Who might have this. So that metadata.  
10 Then eventually, once the paper processing center gets  
11 a hold of it or if the TSDF is one of the ones that  
12 want to do image plus data, that data will be  
13 associated with the -- via manifest ID.

14 **MR. JOSHUA BURMAN:** So the association  
15 would come later during the verification or at EPA?

16 **MR. SCOTT CHRISTIAN:** If it's just an  
17 image, yes. EPA at the paper processing center. If  
18 it's image plus data, well then the association at the  
19 time of delivery, but then the paper processing center  
20 is still opening and reviewing and going through and  
21 our validation checks are being run.

22 **MR. STEPHEN DONNELLY:** Yeah, we're  
23 going to talk more about paper processing right after  
24 this of which the pdf piece is a part.

1                   **MR. JOSHUA BURMAN:** Thanks.

2                   **MR. MICHAEL HURLEY:** Just a question  
3 because if the JSON has the metadata in there, the  
4 code of the state that you're doing, like if Justin is  
5 doing one for Walmart, so he's using an Arkansas-based  
6 number, would he be able to go in as himself and then  
7 start creating manifest for and calling in facilities  
8 from like, California, Massachusetts, Rhode Island,  
9 like all over the place? Or would he be locked just  
10 to state his ideas from?

11                   **MR. SCOTT CHRISTIAN:** No, no. It's  
12 wherever you have permission to make amends.

13                   **MR. MICHAEL HURLEY:** Thanks.

14                   **MR. SCOTT CHRISTIAN:** Awesome. So am I  
15 passing back to Steve?

16                   **MR. STEPHEN DONNELLY:** Okay. Well,  
17 thank you. Could we get the original presentation  
18 back up so we can discuss sort of the OM post launch  
19 operations of the systems. Oh, here we go.  
20 Operations and maintenance of e-Manifest.

21                   As we discussed earlier, paper  
22 processing has to be on the table because electronic  
23 manifesting is volunteer. The following submission,  
24 those methods are considered part of the paper

1 process. We have postal mail. We have the image file  
2 of a scanned manifest transmitted to the EPA.

3 We're talking about a pdf from a  
4 scanned manifest sent through the API or uploaded by  
5 the web. Or a data file containing manifest data with  
6 an accompanying image file of the scanned manifest  
7 transmit to EPA with a complete JSON containing  
8 manifest data with an accompanying pdf sent through  
9 the API or uploaded via the web interface.

10 It arrives at the paper processing  
11 center. But here's the rub about the e-Manifest, the  
12 paper processing. The manifest, as you've seen it, is  
13 not conducive to image capture. It is a very complex  
14 form. As we've discussed, there is a lot of quirks  
15 about the hazards waste shipment chain of custody and  
16 it cannot be used in any high-volume scanners. There  
17 are these beautiful scanners that can actually cut  
18 open the envelope. They can blow out the paper with a  
19 cut of air and it can go through industrial scanner  
20 and it can read all the text in there and populate  
21 into the appropriate areas and it takes a matter of  
22 seconds. That is not what we're talking about with e-  
23 Manifest. This thing needs to be pulled out and read  
24 by a person and manually entered, manually keyed in

1 and then doubled checked.

2 All sorts of discrepancies need to be  
3 taken up with the TSD or the generator. So phone  
4 calls and emails need to be made. This is a very  
5 complex and very labor-intensive process. And as I  
6 believe Minnesota made it abundantly clear during the  
7 comment on the Rule, it is a transaction that is  
8 fraught with issues.

9 **MR. JOSHUA BURMAN:** For the record,  
10 this is Josh Burman nodding my head up and down.  
11 Minnesota is a state that spent several years testing  
12 basically every scanner we could get our hands on in  
13 the market. And different qualities and different  
14 papers. The difficulty is such that simply with the  
15 paper quality and the image quality, as well as the  
16 prevalence of handwriting. It was just not a go.

17 I was just going to ask if you could  
18 talk a little bit more about is the complexity because  
19 of the handwriting? Is it because of the -- like a  
20 data guise? It is because of the complexity of the  
21 domain of information that could be in a field? But  
22 it sounds like in every field on this little manifest,  
23 there's a finite number of legitimate entries.

24 **MR. STEPHEN DONNELLY:** Well, starting

1 with the manifest itself, it isn't, you know, bonded  
2 A4 paper. It is like the cheap carbon, when you rent  
3 a car from the airport. That type of paper. So that  
4 really takes a lot of wind out of the sales of wanting  
5 to run it through a machine. Or even just placing it  
6 on a scanner.

7 It is the complexity of the manifest  
8 form itself is really secondary to the actual physical  
9 manifest. There is a lot of handwriting on it.  
10 There's a lot of see-through. And as I said earlier,  
11 it's a very kinetic transaction. Going to the loading  
12 dock, these are signed on stacks of magazines on some  
13 guy's desk or like on a side of a truck these things  
14 get put through the ringer. I don't think I'm out of  
15 bounds by saying that. It gets to the paper  
16 processing center in a very used condition.

17 Scott, you want to talk more about  
18 pulling the data out?

19 **MR. SCOTT CHRISTIAN:** So another thing  
20 is we have 13 registered printers. All of which  
21 generally have the same layout, but it's not exact.  
22 So it's 13 different images that we would have to  
23 bring in and also the typeface is different. So it's  
24 not just necessarily people handwriting it, but

1 they're also using different fonts and different font  
2 sizes. There's a lot of variability in there for the  
3 OCR.

4 **MR. STEPHEN DONNELLY:** In changing the  
5 form into a single standardized form to make it OCR-  
6 able to optical or character recognition to make it  
7 stainable would -- that's actually, if you look at the  
8 burden -- it's easier to build e-Manifest. You would  
9 really need, you know, God himself to sign off on that  
10 form.

11 **MR. ROBERT KLOPP:** How about a machine  
12 learning instead of God?

13 **MR. SCOTT CHRISTIAN:** That's going to  
14 put us all out of work in a couple of years.

15 **MR. ROBERT KLOPP:** Later we'll talk  
16 about this. But to help me with this, if I was going  
17 to do machine learning, what I would need is a set of  
18 I'm going to say a million just to pick a big number.  
19 I need a big number of ugly, bad, crumpled, used, you  
20 know, the worst set of real-life manifest you had that  
21 had already been translated by human beings into  
22 something machine readable so that I could teach a  
23 machine how to do that thing so I can do it. I can do  
24 it. I'll guarantee you. I mean, I absolutely

1       guarantee you. Skewed, bad font scanned in with a low  
2       -- I can do it. We just did it, it has to say. And  
3       I'll talk about some it more, but I guess my question  
4       just is, is there a training set that you could show  
5       me a million ugly ones that somebody by hand typed in  
6       to something that reflected the way a human being  
7       would translate it.

8                   MR. DAVID SHARMAN: Hey, this is Dave  
9       Sharman (ph), part of the e-Manifest Team. The  
10      problem with conducting automated image capture based  
11      on these forms, goes well beyond handwriting and even  
12      the paper of quality. These are not uniformed forms  
13      in the sense that every single form has one waste  
14      transaction on it. You could have any number of waste  
15      transactions. These forms are not designed for us to  
16      --

17                   MR. JOSHUA BURMAN: If a human being  
18      can do it, I can teach a machine to do it.

19                   MS. CYNTHIA WALCZAK: Well --

20                   MR. ROBERT KLOPP: It's just that  
21      simple. If a human being can look at it and find the  
22      information, then I can machine-learn and teach a  
23      machine to do it with today's technology.

24                   MR. SCOTT CHRISTIAN: We can get

1 Minnesota to contribute a lot of their manifests. I  
2 think if the states would want to pitch in and send  
3 some of their manifest's row illegible, complete, upside  
4 and backwards manifests --

5 **MR. BARNES JOHNSON:** Yeah. The other  
6 thing is, I think Rob, tomorrow, when we get into some  
7 of the recommendations, this could be an area that we  
8 take a deeper dive into as well.

9 **MR. ROBERT KLOPP:** Okay. I'm hinting  
10 at recommendation, but I'm really trying to figure out  
11 whether there is the information available that I can  
12 even make a recommendation.

13 But again, I'll make it really simple.  
14 Image processing today is better than a human being.  
15 It is better than a human being.

16 **MR. JUSTIN WILSON:** Justin Wilson. I  
17 was going to say it'll need to be better than a human  
18 being because of the volume of manifest that I've  
19 reviewed over the last several years. Many cannot be  
20 deciphered by a human being.

21 **MR. ROBERT KLOPP:** I understand that,  
22 but then giving them to a processing center doesn't  
23 work either, right?

24 **MR. JUSTIN WILSON:** Guys like Joshua



1 call me about those manifests. You know, somebody  
2 created it on my behalf and then I read it see why  
3 he's upset because I can't read it either. It's  
4 things like wide, broad, splotching of ink. You know,  
5 when it is printed, it's things like that where it's  
6 just -- you can't tell an eight from a six from a zero  
7 in a lot of cases. That's all. I just wanted to give  
8 you some --

9 **MS. CYNTHIA WALCZAK:** This is Cindy.  
10 I'd like to ask a question if I could along these  
11 lines. I think a lot of the reason they're not  
12 legible is the high impact printer that needs to be  
13 used because you have carbon copies. And that's like  
14 on the daisy wheel and it's a mess. I get that. So  
15 is there some thought to dispensing with that? That  
16 is allowing users a paper manifest to sit down with  
17 their laptop and fill in a pdf form and print it out  
18 so that it can be read by OCR?

19 **MR. SCOTT CHRISTIAN:** I guess that's  
20 more in the recommendations part. We should discuss  
21 that again tomorrow.

22 **MS. CYNTHIA WALCZAK:** These are just  
23 things to consider.

24 **MR. SCOTT CHRISTIAN:** You can print out

1 your paper copy when you're going through the  
2 electronic system and that's your paper copy for the  
3 truck. And that is a pdf. But not for --

4 **MR. BARNES JOHNSON:** Do you want to re-  
5 go through the rest of this slide? Because it does  
6 sort of speak to this a little bit.

7 **MR. STEPHEN DONNELLY:** Yeah. There's  
8 other considerations that we need to keep in mind when  
9 we're talking about the paper processing center.  
10 There is a data entry quality, sorting manifests. We  
11 talked about in the proposed rule, the supplemental  
12 and miscellaneous documents that come in with the  
13 manifests.

14 Sometimes things get pout into an  
15 envelope that don't exactly have much to do with the  
16 hazardous waste manifest. And we either say workflow  
17 we need to do this. There are performance standards  
18 we need to put in place for the manifest because we're  
19 assuming three to 5 million manifest a year.

20 There are 5 million manifests that  
21 works out to about 20,000 a day, I believe. So even  
22 if we go half that, 10,000 manifests a day or 5,000  
23 manifests a day, that's a lot of manifests that need  
24 to be sorted and captured and run through.

1           As it stands right now, this is a very  
2 labor intensive, very complex industrial process that  
3 we are faced down the barrel of standing up and we  
4 have to keep in mind the cost of the system of the  
5 operation. I will be recouped in user fee, so we  
6 don't want to -- we need to be looking forward to  
7 getting the best value for our customers.

8           We need to be looking at data integrity  
9 when it comes to - this is your data that will be  
10 going on paper that we will eventually be giving back  
11 to you in the form of electronically. And like I said  
12 earlier, this is the roundabout way to submit data to  
13 e-Manifest by services. You're just mailing it to  
14 somebody and then they're putting it back into the  
15 system, the easiest way possible. We need to look at  
16 the paper capture operation.

17           **MR. BARNES JOHNSON:** But can you just  
18 go back a slide, please, Steve, and just go over the  
19 three forms there.

20           **MR. STEPHEN DONNELLY:** Yes.

21           **MR. BARNES JOHNSON:** Did you discuss  
22 those?

23           **MR. STEPHEN DONNELLY:** Yes.

24           **MR. BARNES JOHNSON:** You did. You did.

1                   **MR. STEPHEN DONNELLY:** Yes.

2                   **MR. BARNES JOHNSON:** Okay. Because  
3 that kind of gets at the issue you were asking about,  
4 Cindy, I think.

5                   **MS. CYNTHIA WALCZAK:** I think not.

6                   **MR. BARNES JOHNSON:** Okay.

7                   **MS. CYNTHIA WALCZAK:** Because I think  
8 what I'm asking is the six-part carbon copy, maybe we  
9 don't need to be doing that. Maybe what we need to be  
10 doing is just one page and you can take a jpeg or  
11 image of it.

12                   **MR. STEPHEN DONNELLY:** Isn't that the  
13 second option there?

14                   **MS. CYNTHIA WALCZAK:** Yes. Right. I'm  
15 thinking maybe when Rob brought up the OCR -- I wonder  
16 if EPA has considered getting rid of the six-part  
17 system, manifest system, the tissue paper and the  
18 carbon, even with the first two options and not only  
19 the third option.

20                   **MR. JOSHUA BURMAN:** I'd just like to  
21 interject with that. This was a subject of  
22 discussions in 2004, 2008, and I think it came up in  
23 the 2014 meeting. One of the big goals of e-Manifest,  
24 at least from a state point of view is data

1 management. And we can reinvent the paper manifest  
2 over and over. We can make the form better. We can  
3 print from pdf to create that, but that doesn't  
4 capture the data. And then we're still left with a  
5 piece of paper with printing on it.

6 And yes, the printing is easier to read  
7 or we can have machine learning and teach scanners how  
8 to scan the paper, but we'll still be dealing with  
9 paper. And dealing with raw data from the state point  
10 of view would be far more efficient. And I believe,  
11 based on the history of comments, that at least  
12 Minnesota has received, from much of industry, it  
13 would be more efficient and better able to be managed  
14 as well.

15 I think from a very early stage, many  
16 people's input, including my own, and I'll speak just  
17 for myself here, was that we can polish the soul's ear  
18 of the paper manifest as much as we want, but the goal  
19 is electronic data. And how we get there is what e-  
20 manifesting is. It's how do we get the data because  
21 the data is what we want. The piece of paper is just  
22 how we get it right now, but we'd really like to get  
23 rid of it.

24 **MS. CYNTHIA WALCZAK:** Right. But the

1 Act requires that it be an option, so we can't get rid  
2 of it. If you can't get rid of it, how do you make it  
3 more manageable than what they're talking about. And  
4 I'm very familiar with the manifests and what they're  
5 printed on and how they look.

6 **MR. THOMAS BAKER:** If I could just add  
7 something to clarify. The important part that hasn't  
8 been mentioned yet is that for every transactions that  
9 we're talking about, a human is already looking at the  
10 manifest as part of the response for the TSDF to  
11 accept the waste. In an ideal world, that data goes  
12 from the TSDF to an electronic means in this hybrid  
13 approach and it could clearly reduce the number of  
14 manifests that need to be processed manually at EPA.  
15 I think as we talk about this more, we need to look at  
16 ways of incentivizing the TSDFs to submit data  
17 electronically and not send in paper copies. And that  
18 should not, in my opinion, be something that's  
19 difficult to do if it's managed properly.

20 As far as the collection of EPA would  
21 be how many manifests really need to be manually  
22 processed at the center. You may want to take another  
23 look at that and really think about that number in  
24 light of how you can incentivize TSDFs to submit

1 electronic data to minimize those numbers and  
2 manifests to be read manually at the agency.

3 **MR. STEPHEN DONNELLY:** Absolutely.

4 **MR. BARNES JOHNSON:** We're going to be  
5 talking about that later on this afternoon.

6 **MR. JOSHUA BURMAN:** I'd just like to  
7 caution, as another Board member that I don't think  
8 that's a recommendation of the Board yet at this point  
9 because there are other Board members that have some  
10 input on that, myself included.

11 To respond, Ms. Walczak, to your point  
12 is do we need a six-part form in the first place? A  
13 lot of it comes down to chain of custody. There are  
14 signatures on the form. And it is those signatures  
15 that are the key for legal chain of custody, as far as  
16 we're concerned.

17 **MR. THOMAS BAKER:** Sorry, I shouldn't  
18 have said "were." As far as a state is concerned.

19 **MS. CYNTHIA WALCZAK:** Tom brings up a  
20 point, actually, that made me realize I had a  
21 question. Who is submitting these paper form, the  
22 generator or the TSDF?

23 **MR. SCOTT CHRISTIAN:** It is the TSDF  
24 that we proposed in the fee rule.

1                   **MR. BARNES JOHNSON:** Okay. Keep going,  
2 Steve.

3                   **MR. STEPHEN DONNELLY:** Absolutely.  
4 This is a final word with this entire project is aimed  
5 at delivering an electronic manifest system. So one  
6 of the reasons we're all here in this room together is  
7 to crack that nut of how many manifests can we stop  
8 from being paper in June of 2018? That's my goal and  
9 hopefully that's everyone's else's goal is to sort of  
10 minimize the paper.

11                   That's how we're framing our system  
12 development and that's how we're framing the user fee  
13 rule. Day 1, we want 100 percent electronic appliance  
14 and we want data to be zooming around from the states  
15 to the industry and everyone to be incredibly  
16 satisfied with what we built for Phase I.

17                   **MR. ROBERT KLOPP:** So I guess I have a  
18 question about that because I guess if I think about  
19 all of the reasons why, you know, what the value  
20 propositions are around this thing, I think it's about  
21 having data that's accurately shared across a whole  
22 bunch of different places. I think that it's about  
23 having information that is sort of accessible by lots  
24 of people throughout the whole course of the process.



1 I think there's a whole bunch of reasons why this is  
2 important, but I'm not sure that getting rid of paper  
3 all by itself is important. It seems to me that  
4 getting rid of paper is an important step in solving  
5 all of these other problems.

6 If I could keep paper -- if I had  
7 digital ink, right, then why would I care about  
8 getting rid of paper? And if I can write on a piece  
9 of paper and everything I wrote on the piece of paper  
10 was captured as if it was digital, it's not about the  
11 paper, it's about more accurately capturing  
12 information. And I think that it may be that you have  
13 to get rid of paper, but maybe you don't.

14 I mean, when I was listening to Cindy,  
15 what I was thinking about was gosh, if I passed a  
16 piece of paper and at each step of the way the  
17 previous information was captured accurately and  
18 digitally and I filled out three things on the piece  
19 of paper by hand and I immediately captured that  
20 information off that piece of paper digitally, and the  
21 next guy now got a piece of paper that had all digital  
22 information and they wrote a couple of things by hand,  
23 but now I scan and capture that, then why do I care  
24 that it's paper?

1 I'm not sure if this is where you were  
2 going, but I kept thinking that if I didn't have a  
3 six-piece carbon copy thing, but I passed paper, but  
4 every time I pass paper from one step to the next that  
5 when I passed paper to you, what you got was a perfect  
6 piece of brand new paper that had all of the previous  
7 information on it. And you might write three things  
8 in by hand and when you pass it to Scott, what Scott  
9 gets is, that little bit you wrote in by hand is now  
10 transcribed onto paper perfectly and captured, then  
11 who cares about paper, right.

12 I guess what I'm wondering is, are we a  
13 little bit lost on whether the objective is getting  
14 rid of the paper or whether the objective is having  
15 accurate digital information across every step of the  
16 process. And those are two different things. It  
17 could be two different things, especially if there's a  
18 legal requirement to keep paper because really what  
19 you're saying is that there is a legal requirement to  
20 keep paper and your objective is to get rid of paper,  
21 which makes you a criminal.

22 **MR. JOSHUA BURMAN:** This is Joshua  
23 Burman. I can speak just very quickly to this and I  
24 can say that exists today. A few years ago before

1 uniform manifest went live, many states, including  
2 Minnesota, had a state-specific manifest. Minnesota's  
3 manifest required more copies to go to more people  
4 than other manifests which meant when a federal  
5 manifest came into our state handler -- handlers in  
6 our state, did exactly what you're describing.

7           They entered new information on the  
8 form and then they made a magical copy of that from.  
9 They used Xerox and made a photocopy and then retained  
10 a copy. And everybody got the data they needed, but  
11 it ended up using 10 to 12 pieces of paper for one  
12 manifest. And everybody had to keep that paper  
13 separately. Everybody had to have a file cabinet and  
14 the state had to have a warehouse of paper and we  
15 would much rather have a server than a warehouse  
16 because currently we have a warehouse.

17           **MR. ROBERT KLOPP:** I said we would  
18 capture the data digitally, not that we would store it  
19 on paper.

20           **MR. BARNES JOHNSON:** Let me encourage  
21 Steve to keep moving through the presentation here.  
22 Just so you know, we're going to have all day tomorrow  
23 for the committee to talk, and on Thursday, for the  
24 committee to talk among yourselves and kick things

1 around and whatnot.

2 **MR. STEPHEN DONNELLY:** All right. So I  
3 will move onto the other part of our operations and  
4 maintenance of the system, the IT help desk. So we  
5 have a user base that we feel will be ready to go when  
6 e-Manifest system launches. And then we have a user  
7 base we feel that we can convince to start using  
8 electronic manifests. And both of those we'll need  
9 help from an IT perspective.

10 This will be thrown out to the advisory  
11 board and brought up again in conversations with our  
12 user groups. EPA, we may require 247 help desk  
13 operations and it would have to be tier support.  
14 We'll discuss the tiers in the next slide, but this  
15 will be -- this is a crucial part of this application.  
16 Although it's post-launch, this is how our user  
17 community will be interacting with e-Manifest.

18 When something goes wrong, they're not  
19 going to be able to -- well, they might call me, but  
20 they'll probably call the IT help desk and they will  
21 sort out the problems of submitting a manifest:  
22 CROMERR problems, user registration, x, y, and z. And  
23 this will give them a sort of working knowledge base  
24 to not only solve their problems for that specific

1 day, but to help us iterate e-Manifest functionality  
2 in the future.

3 Robert, you're right; we are not just  
4 charged with getting rid of paper. We are actually  
5 charged with building a tool for extracting data from  
6 the hazardous waste shipment. That is our end goal.  
7 We feel that eliminating paper is the best means to  
8 that end. And with that we have the idea of getting  
9 rid of paper, but most importantly, we are in the  
10 business of providing value to the industry and to our  
11 brothers and sisters in the state and federal  
12 government and to the public at large. That is our  
13 charge. That's what we're doing here. So we have to  
14 talk about the help desk. And this is why it's good  
15 to have some IT experts and state users on board about  
16 what makes a good help desk.

17 We have in our initial system  
18 architecture. And we'll go through this because we're  
19 a little short on time, but frankly, we're going to  
20 have a three-tiered approach, nothing out of the  
21 ordinary. And then we'll have knowledge base  
22 available on the web as well. Tier 1 will be basic  
23 password resets, account maintenance, troubleshooting,  
24 the manifest creation, getting data out to do

1 reporting. Electronic signatures is a big one.

2 And then Tier 2 will be the fee  
3 questions and lost manifest. That's a little more in-  
4 depth. And then Tier 3, everything is going haywire.  
5 And this is our technical issues. These are glitches  
6 and this is how we'll get our feedback on our new  
7 releases and our new iterations of e-Manifest. This  
8 is how we will be in contact with the help desk.

9 Like I said, we have the expertise in-  
10 house to work with the help desk to say okay, you  
11 know, one of the principals is you put your release  
12 out and you think you know what you know then you find  
13 out from other people that you are solving a and b,  
14 but actually w and r were actually the bigger issue.  
15 We will work with the help desk to solve these  
16 problems and make the e-Manifest not just a stick the  
17 landing on the launch, but Year 2/3 to Year 500 e-  
18 Manifest will be the place to go for your hazardous  
19 waste needs.

20 This is the end of the system part.  
21 I'm going to -- I think we had some good questions.  
22 In the interest of time, I'm going to see if Rich can  
23 come up and walk us through some of the user fee  
24 proposed rule and related issues.

1                   **MR. BARNES JOHNSON:** Actually, before  
2 you escape, Steve, just give the Board an opportunity.  
3 Are there any questions on the help desk piece?

4                   Raj, yes?

5                   **MR. RAJ PAUL:** From a help desk  
6 standpoint, it looks like that current help desk, what  
7 you have today from an IT help desk standpoint is what  
8 you plan to extend or use for the e-Manifest system,  
9 right? It's more system-oriented, it looks like, for  
10 processing things, right?

11                   **MR. STEPHEN DONNELLY:** Yes.

12                   **MR. RAJ PAUL:** So it probably exists  
13 today within EPA.

14                   **MR. SCOTT CHRISTIAN:** They do exist  
15 within EPA, yes.

16                   **MR. RAJ PAUL:** So I was just observing  
17 the debate about the six-form part and so on. So it  
18 looks like the screen sequences that you were giving  
19 in your demo captures the sense of the forms, right?

20                   **MR. SCOTT CHRISTIAN:** Yes.

21                   **MR. RAJ PAUL:** Has there been any  
22 thought put into how you plan to support the user base  
23 and how to use the system because they're used to  
24 using paper?

1                   **MR. STEPHEN DONNELLY:** Yes. One of the  
2 parts of the system development and the e-Manifest  
3 project as well, there is a communications and  
4 outreach piece to what we're doing. You know, we're a  
5 small team and we have a lot on our plates, but we do  
6 have user outreach and sort of educational materials  
7 developing that will ultimately form the IT help desk.  
8 But the IT help desk is going to be a separate entity.

9                   We have similar applications inside the  
10 EPA that have contracts for help desks, so we'll be  
11 looking at them for their best practices and a lot of  
12 the materials and work we develop along the way. And  
13 one of the reasons that outreach is paramount to what  
14 we're doing is that we will hopefully -- we absolutely  
15 will go into a system launch knowing that these are  
16 what we feel our users' sticking points will be when  
17 it comes to the manifest transaction.

18                   **MR. RAJ PAUL:** The reason I'm asking,  
19 Steve, is you have a tiered system here.

20                   **MR. STEPHEN DONNELLY:** Yeah.

21                   **MR. RAJ PAUL:** So Tier 1 sounds like  
22 something which you probably do today for your other  
23 systems between --

24                   **MR. STEPHEN DONNELLY:** Yes.



1                   **MR. RAJ PAUL:** -- and things like that,  
2 right? It looks like there's been thought put into  
3 Tier 2. You have fee questions, lost manifests and so  
4 on. It says little bit domain specific, right?

5                   **MR. STEPHEN DONNELLY:** Yes.

6                   **MR. RAJ PAUL:** So I'm trying to  
7 understand, has there been enough thought to prove  
8 that your Tier 2 could get enhanced?

9                   **MR. STEPHEN DONNELLY:** Yeah. We've  
10 done a comprehensive analysis of --

11                   **MR. RAJ PAUL:** You have.

12                   **MR. STEPHEN DONNELLY:** Yes. So Tier 2,  
13 I pulled together for these slide what I felt like the  
14 highlights of Tier 2 -- I had to fit it all on one  
15 slide, but we can go and --

16                   **MR. RAJ PAUL:** But you did put thought  
17 into it?

18                   **MR. STEPHEN DONNELLY:** Yes.  
19 Absolutely.

20                   **MR. RAJ PAUL:** Okay. Thank you.

21                   **MR. STEPHEN DONNELLY:** A lot of  
22 thought.

23                   **MR. BARNES JOHNSON:** John.

24                   **MR. JOHN RIDGWAY:** The question is do

1 you know if EPA expects to run this help desk  
2 themselves? Or it sounds like you're considering  
3 possibly contracting that out. Either option, at this  
4 point, any clarity on that?

5 **MR. STEPHEN DONNELLY:** Both options are  
6 on the table and we are engaging inside the agency and  
7 actually, you know, outside the agency with other  
8 programs similar to see what are their successes and  
9 failures running a contract. Help desk versus keeping  
10 it in-house. It's one of things we need to evaluate.

11 **MR. RAJ PAUL:** Are the SLAs differing  
12 for the system?

13 **MR. SCOTT CHRISTIAN:** For the help  
14 desk?

15 **MR. RAJ PAUL:** No, for the whole  
16 system, the e-Manifest system.

17 **MR. SCOTT CHRISTIAN:** We do have a  
18 comprehensive list of requirements that we would need.  
19 For the help desk, we do have a robust level of SLAs  
20 that we wanted.

21 **MR. RAJ PAUL:** The reason I'm asking  
22 is, I think during the conversation, I'm not sure  
23 where, the use of paper was also used as a backup  
24 mechanism if the e-Manifest system is not available.

1                   **MR. SCOTT CHRISTIAN:** Yes.

2                   **MR. RAJ PAUL:** So that plant it out in  
3 my mind that the SLA for the system is not high  
4 enough. That's the reason you want to rely on paper  
5 as a backup. Well, the uptime --

6                   **MR. SCOTT CHRISTIAN:** Well --

7                   **MR. RAJ PAUL:** -- will differ quite a  
8 bit on the SLA you have on the system. That's what  
9 I'm trying to understand.

10                  **MR. STEPHEN DONNELLY:** The Act says we  
11 have to have paper. And in our one-year rule, we talk  
12 about if the system goes down then we need to use  
13 paper.

14                  **MR. RAJ PAUL:** Okay. Thank you.

15                  **MR. STEPHEN DONNELLY:** And also, we are  
16 working with Cloud vendors right now. So we haven't  
17 finalized what are SLAs are going to be on uptime, so  
18 we are being deliberately a little acute on that. But  
19 yes, uptime on the system is going to be very  
20 important for us.

21                  **MR. BARNES JOHNSON:** Okay. Thank you.  
22 Rich. Moving right along here.

23                  **MR. RICHARD LASHIER:** All right. Good  
24 afternoon. Glad to be back here at the table. I'm

1 here to talk about the user fee proposed rule and the  
2 comments we received. Just to clarify, we're engaging  
3 you in the discussion about the use of the proposed  
4 rule not because we're asking you to advise us on how  
5 we should've written the proposed rule. It's too  
6 late. It's been published and we've already received  
7 public comments on it.

8           You might've had some ideas on how you  
9 could've written a much better rule, more concise and  
10 ask the better questions, but that's already a done  
11 deal. Where we want to ask for your help is  
12 basically, we've got a number of comments received and  
13 for several issues, we actually have prepared charge  
14 questions for you on the ones you think are more  
15 taxing, more vexing right now. And we want to ask you  
16 to help us reconcile some of the comments we received  
17 from the public in going forward in writing the final  
18 rules. That's basically the role we envision for the  
19 advisory board in helping us advise us on the fee  
20 rule.

21           The fee rule was published -- let's get  
22 the slide up here now. Now, we mentioned, you heard a  
23 while ago that the fee rule is going to be published  
24 prior to the system implementation. The actual date

1 for the for the fee rule to be published in the final  
2 rule is now scheduled for mid-December of 2017. Not  
3 2018, but December of 2017. And that date was not  
4 arrived at casually or cavalierly.

5 In fact, when the group got together  
6 and looked at all the project plans, a date that  
7 jumped out initially was the system being completed,  
8 tested, accredited by the spring of 2018. We then  
9 backed off three months and said our goal for the fee  
10 rule is to have it done by December of 2017 so folks  
11 would have at least three months to digest the fee  
12 schedules and be ready for the implementation of the  
13 fees with the system. It wasn't like it was the other  
14 way around where we just had this date that came out  
15 of the air and now we're holding up the system. It  
16 was actually planned that way so that the fee rule  
17 would be out and done three months at least before the  
18 system was ready in the spring of 2018.

19 July 26th was date that the fee rule  
20 was published. It's this voluminous document here,  
21 published in the Federal Register standard FR types of  
22 text. And its purpose really, the two main things it  
23 does is it proposes the methodology for determining  
24 and then revising e-Manifest-related user fees. And

1 of course, we also announced a creative process for  
2 publishing those fee schedules and those revisions to  
3 the user community as some regular frequency.

4 And looking through the methodology, we  
5 had to work through and try to resolve a number of the  
6 key fee-related issues. And right there you see the  
7 list of the six kind of core issues that are part and  
8 parcel of the proposal and will be discussed as final  
9 decisions in the final rule. And they are pretty  
10 straightforward. The question is which users and  
11 transactions will give rise to fees? Which users are  
12 going to be required to pay fees? What types of  
13 manifest transactions will give rise to a fee?

14 How and when will payments be made?  
15 When is the fee oweable [sic]? What program costs are  
16 we going to be describing as fee recoverable? Because  
17 as you've heard earlier, the upshot of doing a fee  
18 program under the budget processes, we have to give  
19 total cost recovery. We tried to use a proposed rule  
20 to articulate and explain all the program costs we see  
21 as being out there and eligible for being recovered by  
22 our fees. The proposal will go to greater lengths to  
23 try to explain that to make clarity of that. And  
24 we'll discuss that in a bit.

1           What formula will we then use? Once we  
2 understand, we have a common understanding of what all  
3 these recoverable costs are, what formula will we then  
4 use in our methodology to allocate those costs across  
5 all the manifests?

6           There's been a consensus from the get-  
7 go when we started talking about e-Manifest that it  
8 seems the most sensible way to assign fees is on a  
9 per-manifest, a transactional basis. If somebody has  
10 a heavy involvement with manifests, they should pay  
11 the freight for those manifests. The transaction  
12 basis seems to be the idea that's carrying the day for  
13 a long time. We have to account for the way of  
14 describing the formula that would then be allocating  
15 all those costs to the individual manifest. So that's  
16 assuming it is a very core part of the fee rule.

17           How do we address the fee revisions  
18 process? This is something that in the budget  
19 documents they often refer to as fee trajectory, but  
20 the idea is we have to keep pace with program cost  
21 changes, whether it be caused by inflation or the  
22 system becoming more expensive to operate. We have to  
23 have a way to have the fees not be so etched or fixed  
24 in stone that they can't adjust and they are to keep

1 pace with program costs and their changes. That's  
2 what the fee revision issue is about as well as how to  
3 make those fee changes known to the public and the  
4 user community.

5 Then, of course, the final topic that  
6 is discussed in the fee-related issue was what  
7 sanctions to impose to try to induce folks to make  
8 prompt payment of fees. What are the consequences of  
9 fees that are not paid timely?

10 Under the proposed Rule, we decided  
11 that the threshold level, that a way to try to  
12 describe the fee paying obligation was to track  
13 closely the definition of user that was actually in  
14 the e-Manifest Act. And the e-Manifest Act can find  
15 the term "user" to mean folks in the regulated  
16 community, regulated industry, the generators, the  
17 transporters, and the waste receiving facility that  
18 are required by regulation, the federal or state to  
19 use a manifest to track their shipments.

20 So it's the regulated community, users  
21 of the manifest that are the users in the statute and  
22 are regulations for the manifest system and therefore,  
23 they are the ones that the requirement to pay user  
24 fees actually begins with those users. It's a pretty



1 common sense approach, but the idea is users lead to  
2 user fees, right.

3 Then from there, we decided to further  
4 refine the scope of fee-owing entities to focus in on  
5 the 400 or so RCRA permanent facilities, the TSDF we  
6 talked about earlier. These are the fellas that  
7 receive waste from outside from management. And we  
8 know that on the federal permanent facilities, there  
9 are about 400 or thereabouts of these facilities. The  
10 thought was that rather than trying to establish  
11 payment accounts and have 100,000 or more generators  
12 coming into the system and being responsible for  
13 paying fees every time they touch a manifest, for some  
14 generators, they don't touch a manifest that often.  
15 The smaller ones might touch it a couple times a year.

16 Whereas, the TSDFs are the ones that  
17 are in the business. They basically are out there to  
18 serve the generator community. They're the ones that  
19 have a longer-term interest in the implementation of  
20 e-Manifest and its viability. So we thought it was to  
21 make it more practical for the fee payment system to  
22 focus on the TSDFs as the fee paying entity rather  
23 than all the generators and transporters who might,  
24 over time, become involved with a hazardous waste

1 shipment. That definitely makes it much more  
2 practical. We're talking about 400 or so payment  
3 accounts.

4 Now, I stand corrected already before  
5 anyone asks, because it's not just a form of RCRA  
6 TSDFs because there are state-regulated waste  
7 facilities involved here as well. That number will  
8 probably go up some. There will be some facilities  
9 that receive waste that aren't RCRA permanent RCRA  
10 TSDFs. And since they are part of the system, they  
11 will also be on the hook to pay fees, once we find out  
12 who they are, right. It's not necessarily a simple  
13 answer.

14 I know that in Minnesota, Josh  
15 commented, he told us that he noticed the fact that  
16 they don't even know where some of these facilities  
17 are that receive the state-regulated waste. And we're  
18 going to have to solve that riddle as well. Okay.  
19 The rule would also clarify that the major billable  
20 event, in terms of when a fee is owed, the submission  
21 of the final copy by the receiving facility. I'll try  
22 to use the term receiving facility instead of TSDF, to  
23 be more accurate here. The submission of that final  
24 copy by the receiving facility would be the major

1 billable event in the system.

2 Now, we talked about, we proposed the  
3 idea of perhaps being other transactions such as  
4 corrections submissions when the correction as he made  
5 to data that are already in the system. Perhaps there  
6 was some sorting of documents that are considered to  
7 be extraneous that had to be returned to sender.  
8 Perhaps those would give rise to fees. But those are  
9 all errors that are discussed in the comments. We're  
10 actually focusing much more heavily now, going  
11 forward, on the submission of the final copy rather  
12 than correction notices as being the billable event.

13 Okay. Any questions so far in terms of  
14 the scope of the user fee proposed rule and going  
15 forward with the final rule?

16 Yes, Rob?

17 **MR. ROBERT KLOPP:** Earlier, somebody  
18 mentioned something about the fact that the states  
19 also tax or have fees on some of this exact same  
20 processes. Can you talk a little bit about how that  
21 all sort of sorts out?

22 **MR. RICHARD LASHIER:** There's some of  
23 that going on, Rob. There are some states that  
24 actually do charge fees for the processing of

1 manifests that they collect and receive and key into  
2 their systems. And so there is the issue of is there  
3 redundancy there? To the extent that the states do  
4 continue to receive data. And maybe they won't be  
5 keying in the data.

6           Maybe some of these fees will be  
7 adjusted so that it's just consistent with what they  
8 actually do with data in their system. But there is  
9 the issue of those states that do collect manifest.  
10 Now, some of them are, in fact, charging a fee for the  
11 processing of those manifests. There's going to be  
12 some overlap there that will have to be reconciled in  
13 time.

14           The other issue we talked about earlier  
15 were the states that actually charge fees more than HO  
16 taxes on the quantity of waste you bring into the  
17 state. That's a little different matter. That's more  
18 of a tax if you bring, you know, 10,000 pounds of  
19 waste into our state. We're going to charge you a per  
20 ton fee or whatever for amount of what waste you bring  
21 in and they use the manifest data to determine what  
22 that tax should be. There are a couple of things  
23 going on there with states and fees.

24           Any other questions?

1                   Okay. This is one of the questions I  
2 wanted to bring to your attention, the fee payment  
3 options, is an issue we want to bring up with you  
4 because it is one of the areas where we're going to be  
5 asking you to advise us in our charge questions later.

6                   Under the e-Manifest Act, EPA has  
7 granted this broad discretion to collect fees. And  
8 under the statute, it says that we can collect the  
9 fees in advance of or as reimbursement for services,  
10 both electronic and the paper manifest that continue  
11 and use. Our fee authority sends both the paper and  
12 electronic processing, but the question the statute  
13 raises is whether it's best for us to be charging fees  
14 in advance for services or charging it as  
15 reimbursement for services that have already been  
16 provided.

17                   Now, among the other EPA fee programs  
18 talking about the lead paint certification programs,  
19 the pesticides programs, almost all of them involve  
20 people paying fees in advance for certain services.  
21 Typically, if you pay a pesticide fee, you're paying  
22 EPA in advance to work on a pesticide registration  
23 application. EPA has done a certain amount of  
24 modeling about how much staff and toxicologist time it

1 would take to evaluate a new pesticide. If you want  
2 to have an application considered, you write the check  
3 with your application and EPA won't even start work on  
4 it until it receives the fee for that type of  
5 activity.

6 But our manifests are a little more of  
7 a transactional-based program as opposed to some  
8 exhaustive application staff time on registrations.  
9 It's more of an open question. What we want to do, we  
10 want to throw out the idea that there were a couple of  
11 options that are on the table. We wanted to try to  
12 put one option in the proposed rule called the  
13 advanced fixed payment approach. And this was  
14 structured in the proposal the way it was to be  
15 consistent with treasuries pay.gov collection system.

16 As you know, the Treasury has an  
17 electronic collection system called pay.gov. We are  
18 trying to find a way to make the payment process  
19 somewhat automatic. We are thinking, our vision at  
20 the time had something more like an E-ZPass approach,  
21 given the sheer numbers of manifests that are going to  
22 be out there on the street each day. Wouldn't it be  
23 nice if there could be like, a pre-funded account?  
24 And each time a manifest crosses the finish line in

1 the system, there would just be a debit from that  
2 account, almost automatically, without anybody having  
3 to think about it. That was the ideal. But  
4 unfortunately, we found out in talking with Treasury  
5 is that you have a special statutory authority to have  
6 that kind of a prepaid account and debit feature.

7 What they did have is what they call  
8 the recurring fixed payment approach. We structured  
9 the advanced fixed payment approach in the proposed  
10 rule to try to be consistent with Treasury on the  
11 recurring fixed payments. What we had in mind is that  
12 the TSDFs would make a fixed payment, say, in the  
13 first of each month. One month's worth of manifest  
14 activity the first of each month. They would  
15 determine the amount of that fixed payment based upon  
16 the previous years' manifest volume usage. And from t  
17 that, they would determine what their manifest  
18 exposure was. Perhaps, divide that by 12 and come up  
19 with a monthly experience and then on a worksheet at  
20 the beginning of the year, determine then what their  
21 monthly fixed payment would be based upon their  
22 previous years' manifest experience.

23 And then at the end of the year, EPA  
24 would actually try to reconcile the actual use

1 experience with the projected experience that they use  
2 in their estimated fee and square it with that  
3 facility with one invoice at the end of the year. The  
4 advantage of that approach for EPA and others is that  
5 it's one that makes the process automatic.

6           You don't have to think about  
7 responding to an invoice and paying the bill. It  
8 gives the EPA some revenue stability at the beginning  
9 of the process by having the payments come in at the  
10 beginning of the operation as opposed to having to  
11 wait several months for invoices and payments to come  
12 in. And we also are much less involved in the  
13 invoicing process.

14           If we do a monthly invoice of all the  
15 facilities, we're doing 400 invoices, at least, every  
16 month over and over and over again. To whereas, here,  
17 we're talking about perhaps, having an invoice, one,  
18 at the end of the year to reconcile accounts. So that  
19 basically is what we proposed for the fixed payment  
20 approach to try to make it fit in with this idea of  
21 the recurring fixed payment that Treasury recognizes  
22 as being an allowable payment under pay.gov.

23           And of course, the other approach that  
24 we proposed as well was the basic reimbursement



1 approach, since the statute says we can do a  
2 reimbursement payment as well by such invoicing  
3 facilities each month for the actual usage of  
4 manifests during the prior month. The TSDFs or  
5 receiving facilities would receive a bill at the end  
6 of the month documenting, itemizing how many manifests  
7 of each type they actually use during that billing  
8 period. They would be directed to the pay.gov site  
9 and be asked there to make the electronic payment  
10 within 30 days at the pay.gov site.

11 That basically is how the two payment  
12 approaches in the proposed rule would work. As I  
13 discussed, we think that we see some advantages to the  
14 advanced fixed payment approach in terms of providing  
15 a more stable revenue stream for the agency, typically  
16 in the beginning of the operational system. One of  
17 the concerns we've always had as we switch from  
18 assistant development to operation in the middle of  
19 2018, is where we actually have the appropriated funds  
20 on hand to staff the paper center to buy the scanners,  
21 to staff the help desk. Or will we find that we have  
22 a fairly frugal congress and we're going to have to  
23 find a way to put something together on Day 1 to make  
24 the system work.

1                   From the standpoint of stabilizing our  
2 revenue stream, the advanced payment approach where we  
3 start getting payments on the first day of the first  
4 month, gives us that assurance of having revenue  
5 coming in at the beginning of operation rather than  
6 having to wait two or three months for the first  
7 invoices to be acted upon with payments. That  
8 certainly is something that's of interest to EPA. And  
9 we also thought that facilities, after they got used  
10 to the approach, would find it helpful to have that  
11 nearly automatic feature.

12                   Yes, Rob?

13                   **MR. ROBERT KLOPP:** So we can sort of  
14 mandate these fees. I mean, we have to be reasonable,  
15 but it's not like the TSDFs have a choice about this.  
16 They have to pay it. They have to do this. It's a  
17 law.

18                   **MR. RICHARD LASHIER:** The regulation  
19 will be a law, in terms of specifying what the per  
20 manifest user fee will be so it's consistent for each  
21 manifest.

22                   **MR. ROBERT KLOPP:** As long as the fees  
23 are reasonable --

24                   **MR. RICHARD LASHIER:** Right.

1                   **MR. ROBERT KLOPP:** -- then we can kind  
2 of pick whatever way we want to do this.

3                   **MR. RICHARD LASHIER:** Right.

4                   **MR. ROBERT KLOPP:** Okay.

5                   **MR. RICHARD LASHIER:** Both options are  
6 still on the table. We know that the TSDFs, who are  
7 always with them, prefer to be invoiced and pay only  
8 for what they actually use in the prior month. And  
9 they said is there any incentive for us? Actually,  
10 doing that fixed payment approach, can you identify an  
11 incentive for us?

12                               One of things going forward is, you  
13 know, what would be some of the incentives that might  
14 make that advanced payment approach more practical to  
15 a user community?

16                   **MR. ROBERT KLOPP:** Well, I mean, you  
17 can even go one step further. I guess that's what I  
18 was sitting here thinking about is -- I mean, you  
19 don't have to do it. You don't have to tie it to per  
20 manifest, right. You could basically say this is  
21 software we're providing you and it's a software  
22 subscription and we're going to charge you by your  
23 average annual number of shipments that you've had in  
24 the past. You can do an annual subscription.

1                   **MR. RICHARD LASHIER:** Right.

2                   **MR. ROBERT KLOPP:** You could go even  
3 one step further and make it really, really simple.

4                   **MR. RICHARD LASHIER:** In the proposal,  
5 we talk about the idea of being one annual fixed  
6 payment based upon prior experience with manifests and  
7 that being essentially the benchmark.

8                   **MR. ROBERT KLOPP:** Because, I mean, the  
9 admin costs that we're going to recruit to try to  
10 figure out how to keep track of these things when it's  
11 at a low level of transaction. Just that would allow  
12 us to lower our costs.

13                   **MR. RICHARD LASHIER:** The  
14 administrative cost will be significant for this  
15 billing and --

16                   **MR. ROBERT KLOPP:** So an annual  
17 subscription would substantially lower the  
18 administrative cost which would allow us to lower the  
19 subscription price.

20                   **MR. RICHARD LASHIER:** Right. I mean,  
21 obviously, there has to be a rational basis for any  
22 sort of an annual payment. And certainly, the amount  
23 of manifest usage cries out as being one way to  
24 measure and what is the equitable portion that

1 particular user should be paying in for their  
2 subscription. But you can try to articulate different  
3 ways of justifying manifest usage as being the basis  
4 for the fees, whether you call it a per transaction or  
5 a monthly allotment or an annual subscription.  
6 Clearly, the manifest usage is the best measure of how  
7 that subscription should fall into place.

8 **MR. ROBERT KLOPP:** No, I know. I'm  
9 just saying that there are lots of different payment  
10 schemes that are all rational. And maybe we would do  
11 better to focus on lowering the overall cost and focus  
12 on some finely grained scheme.

13 **MR. RICHARD LASHIER:** Now, some of us  
14 thought we'd propose these two methods. If we were  
15 trying to come up with something entirely different  
16 that wouldn't be a logical outgrowth of these methods,  
17 we'd had to re-propose, which is probably not a viable  
18 option. That's why it's cautious at the beginning.  
19 We're not looking for the better proposal, but how to  
20 reconcile what we've already proposed and where we got  
21 our comments.

22 Okay. Thank you. I think that sort of  
23 tees up for you what the issue is with regard to the  
24 when and how of payments and how we're going to be

1 asking you, as one of your charge questions, to help  
2 us reconcile that. I'll talk in a few minutes about  
3 the comments we got on that as well.

4 And this is where we had the outreach  
5 with the ETC, the associates are presenting the TSDFs  
6 and they've told us in their meetings that they  
7 clearly prefer the monthly invoicing approach. More  
8 precision. And they are a little bit wary about  
9 making an advanced payment to EPA without knowing  
10 that they're getting fair value in looking for  
11 incentives.

12 And initially, when we heat up these  
13 proposals, in the Rule, we were thinking well, maybe  
14 the issue is that after folks adjust to what their  
15 manifest exposure is, they pay several months or a  
16 year or invoices, maybe they'll decide it would be  
17 easier to be on the automatic fixed payment scheme.  
18 People would convert over. We're thinking in the  
19 proposed rule about giving folks a means where they  
20 can opt into the fixed payment after a year or so  
21 after we and they have good data and what their actual  
22 exposure is so we know that we're working on the same  
23 page.

24 But in actuality, we did get comments

1 from the user community saying that they weren't sure  
2 they could actually respond with payments in just 30  
3 days. They thought maybe 45 or 60 days would be a  
4 more appropriate time for the receiving facilities to  
5 be asked to pay these invoices, which makes the  
6 concern about stability and revenue a little greater  
7 at the outset, if in fact, folks are going to need  
8 more time. It almost makes the urgency of trying to  
9 start with an advanced payment approach greater for  
10 EPA because we're being asked to consider delaying  
11 payments further, which is a concern for us in year  
12 one to see the revenues delayed.

13 Any questions?

14 A lot of questions. Okay. Ladies  
15 first.

16 **MS. CYNTHIA WALCZAK:** Sure. Would you  
17 please elaborate on the impediments to using the E-  
18 ZPass model?

19 **MR. RICHARD LASHIER:** The major  
20 impediment was the Treasury said we had to have  
21 explicit statutory authority enabling us to take  
22 payments in that fashion. There are only a couple of  
23 programs that actually have that authority. One of  
24 them was a livestock program of some sort where they

1 are able to pay for cattle that way.

2 **MS. CYNTHIA WALCZAK:** But most states  
3 use it. Or at least their toll road authority does.  
4 So had you looked at ways where perhaps, you could  
5 farm out this process and whoever you farm it out to  
6 wouldn't suffer from those restraints?

7 **MR. RICHARD LASHIER:** Well, we are a  
8 federal agency and these payments are being paid to  
9 Treasury, so we have to kind of follow their  
10 procedures and requirements to be sure that these  
11 accounts are going to be closely audited to be sure  
12 that they are deposited promptly into a Treasury  
13 account. I'm not really sure we have the luxury --

14 **MR. BARNES JOHNSON:** Cindy, what was  
15 your question again, your first question?

16 **MS. CYNTHIA WALCZAK:** The E-ZPass model  
17 for toll roads, the way you pay toll roads, where you  
18 put \$30 or \$300 in. Whatever you want. And then the  
19 toll road authority will take out of what you've  
20 deposited every time you use it. And I'm not sure why  
21 the toll road authority can make that work but it  
22 can't work here.

23 **MR. RICHARD LASHIER:** Yeah.

24 **MS. CYNTHIA WALCZAK:** And I'm not



1 disputing what you're saying, I'm just not  
2 understanding.

3 **MR. RICHARD LASHIER:** We wish it were  
4 the case that we can make a similar regime where it  
5 would always be a painless debit on the fly of the  
6 appropriate amount each time a manifest entered the  
7 system, but the Treasury told us in no uncertain terms  
8 that we don't have authority to do that. And  
9 basically, the closest we could do is try to come up  
10 with this advanced fixed payment approach which still  
11 had the automatic payment feature, it would be a  
12 prefunded account, payments through an ACH debit. But  
13 the idea is that it had to be a fixed amount of the  
14 same each month in order for it to pass muster with  
15 Treasury.

16 **MR. ROBERT KLOPP:** And this was sort of  
17 where I was going when I asked the question about  
18 state taxes. It was because I was trying to figure  
19 out how could leverage somebody else who had already  
20 set up all of the administrative stuff and we can  
21 actually pay them to collect the money for us.

22 **MR. RICHARD LASHIER:** Yes.

23 **MR. ROBERT KLOPP:** But I think this  
24 falls back in your category of now you got to go

1 resubmit and we can't do that.

2 **MR. RICHARD LASHIER:** But certainly --  
3 we actually promoted the idea of there being this E-  
4 ZPass approach. That was our druthers going into  
5 this, initially. And we advocated it with Treasury  
6 and they pushed back. Until or unless there is some  
7 change in the Treasury procedures and pay.gov, we're,  
8 unfortunately, going to have to be working with their  
9 electronic collection processes since they are the  
10 federal agency on revenue collections.

11 **MR. ROBERT KLOPP:** I mean, the approach  
12 that you mentioned, Rich, where someone estimates what  
13 their aggregate fee would be for the year and then you  
14 rectify it at the end, it's not so different from  
15 that.

16 **MR. RICHARD LASHIER:** Yeah. The only  
17 reason it works for Treasury is because it's a fixed  
18 amount each month and we're debiting on a certain date  
19 of each month. A fixed amount each month and it  
20 doesn't vary. Then at the end of the year, on the  
21 side, we do this reconciliation to make we're square  
22 with the actual experience. That's what we had to do  
23 to try to fit it within our square peg to fit in their  
24 round hole. And that's how we did it. And that's the

1       only reason why we did it that way. It wasn't because  
2       it was just because we were just looking for some  
3       strange way to collect fees.

4                       Yes?

5                       **MR. JOHN RIDGWAY:** I have three general  
6       themes here and let me know -- maybe we'll get into  
7       some of this later, so I don't want to distract the  
8       process. The first theme here is the payments versus  
9       what congress then allocates back to spend. There  
10      seems to be kind of a disconnect, at least for me, to  
11      understand that. In general, the idea, as I  
12      understand it is there's a bill that goes out or  
13      there's an advanced payment made. It goes into the  
14      separate account. But then you have to ask permission  
15      to spend that money and I can imagine that may or may  
16      not work in terms of getting the permission or getting  
17      it in a timely manner. Are we going to address that  
18      at all here? And if not, I've got a couple of other  
19      questions.

20                      **MR. RICHARD LASHIER:** I can tell you  
21      it's not quite as dire as you -- we asked the same  
22      question, too, and the answer is it's not quite as  
23      dire a situation as you might think because what  
24      happens is that we'll get authority in advance. So

1 collecting the revenues for that year to spend up to a  
2 certain amount or spend whatever we collect.

3 **MR. JOHN RIDGWAY:** Yeah.

4 **MR. RICHARD LASHIER:** So if we were to  
5 collect secondary fees for fiscal year 2018, we  
6 would've gotten an appropriation from congress prior  
7 to then to spend up to x amount of collected fees or  
8 the entire amount of collected fees; however, they  
9 write their law.

10 **MR. JOHN RIDGWAY:** Great.

11 **MR. RICHARD LASHIER:** So we don't have  
12 to actually collect the money first and then go have  
13 the congress say please give us permission to spend  
14 it.

15 **MR. JOHN RIDGWAY:** Thank you. Second  
16 question is around the theme of how detailed the  
17 billing need to be between two different steps. One  
18 is, as I understand it, the idea, EPA will bill the  
19 TSDs. So 400, give or take, businesses that are  
20 really at the hub of this whole system. Has there  
21 been a consideration that let them figure out the  
22 detail of per manifest cost to their generators with a  
23 more flat fee, in essence?

24 And I'm not recommending this by any

1 means, but keeping the billing system more simple from  
2 the standpoint of what EPA bills the TSDs and then the  
3 TSDs are going to figure out how they recover those  
4 costs through the services they provide.

5 **MR. RICHARD LASHIER:** That is already  
6 part of the equation. I mean, we are going to be  
7 assigning the fees and we will be charging the TSDFs  
8 with the expectation that they will then turnaround  
9 and ask their generator customers --

10 **MR. JOHN RIDGWAY:** Bill them.

11 **MR. RICHARD LASHIER:** -- to either bill  
12 them dollar-for-dollar for what they paid or however  
13 they decide. If they want to eat some of the cost,  
14 they can. And pass it onto the service. Who knows?  
15 But that's an indication that they will pass it on.

16 **MR. JOHN RIDGWAY:** Okay. That's an  
17 option.

18 **MR. RICHARD LASHIER:** Nothing in our  
19 rule will prohibit that.

20 **MR. JOHN RIDGWAY:** And third, and I  
21 don't know if this was addressed in the draft of fee  
22 rule, in terms of non-payment scenarios, where did the  
23 states that are authorized fit into that scenario? I  
24 mean, is it going to be assumed that the states are

1 going to have to go out and try to collect these  
2 monies or is it assumed the EPA will do that?

3 Any thoughts on that?

4 **MR. RICHARD LASHIER:** It is solely  
5 EPA's obligation to do the collection. In fact, we  
6 would be pursuing the collection under Federal Claims  
7 Collection statutes. Some of the sanctions we looked  
8 at considered whether it would be useful to use some  
9 kind of permit authority, withdrawals of permits,  
10 sanctions on permits as one of the hammers to force  
11 payments. But we decided we didn't really want the  
12 trouble, the authorized states and their permit  
13 programs becoming our collection agents. So we kind  
14 of are reconciled under the idea that this is going to  
15 be a federal problem to collect the fees.

16 **MR. JOHN RIDGWAY:** Thank you.

17 **MR. RICHARD LASHIER:** Okay.

18 **MR. JOSHUA BURMAN:** Sorry, Rich. I was  
19 just waiting for Mr. Ridgeway to finish.

20 **MR. RICHARD LASHIER:** Oh, I'm sorry. I  
21 didn't see your hand. I'm sorry.

22 **MR. JOSHUA BURMAN:** This is Joshua  
23 Burman.

24 **MR. RICHARD LASHIER:** Sure, Josh.

1                   **MR. JOSHUA BURMAN:** Question. Given  
2 that the majority of the development costs, at least  
3 in my personal experience, the majority of the help  
4 desk and support costs are first sometimes maybe  
5 second year, but primarily first-year costs. What  
6 estimated payback or reimbursement period has EPA,  
7 looking back, looking at to recoup those costs?

8                   Are you looking at trying to recoup all  
9 those costs the first year of operation or spreading  
10 that out over a time period?

11                   **MR. RICHARD LASHIER:** All of the system  
12 development costs which we define, actually, in this  
13 slide of system set-up costs, all the costs incurred  
14 prior to operation day are all going to be amortized  
15 over a five-year period under the proposed rule. We  
16 proposed that. We didn't get a lot of comment on the  
17 amortization period. I think some folks have asked if  
18 maybe we could speed it up. But the idea is that the  
19 fees that you see in the table, the estimated fees all  
20 include that five-year amortization feature. So the  
21 development costs are spread over five years which  
22 means that the operation costs become more of a  
23 significant factor in pulling the rest of the fees  
24 along.

1                   **MR. JOSHUA BURMAN:** I apologize. I  
2 must've missed that in the proposed rule.

3                   **MR. RICHARD LASHIER:** Okay. Here, on  
4 this slide, if I can move on, we have the program  
5 costs that are fee-recoverable. And this is where we  
6 tried to articulate to the user community so that they  
7 understand that we were being rational when we came up  
8 with this fee methodology. How we define the  
9 different types of categories of cost that we're going  
10 to be allocating to these manifests.

11                   The system set-up costs are all of our  
12 procurement costs, both the IT and non-IT program  
13 development related costs. All the efforts for reg  
14 development that we incur on our team here. All these  
15 costs that are incurred from program development,  
16 program management and the like, up to the operational  
17 data of the system to the day we turn on.

18                   Those are the system set-up costs. As  
19 I mentioned a minute ago, those will be advertised  
20 over five years and recovered to the formula  
21 accordingly. Then the operations and maintenance  
22 costs are the costs dedicated to running an imagined  
23 e-Manifest program. Of course, the help desk and the  
24 paper processing center are our big ones there. But



1 all the costs related to operating the system, the IT  
2 costs, the procurement costs, contractors we employ to  
3 run the system and its components. Any EPA costs that  
4 we incurred and doing additional rules. Doing program  
5 management of the system. All those things happening  
6 at EPA after the operation date, those are all pulled  
7 into the operations and maintenance costs.

8           And there's a final category of what  
9 are called indirect costs. And these would be sort of  
10 enabling other supporting costs that are not captured  
11 by the other two categories. These would be things  
12 like the overhead rents and all for facilities that we  
13 choose to run the paper processing center, for  
14 example. The overhead of running that facility. That  
15 would be an indirect cost, as would some of the costs  
16 of involving high-level EPA managers in briefings on  
17 the e-Manifest over the years, intently involve a  
18 significant number of management.

19           A certain portion of the management  
20 time would be assigned as an indirect cost of the  
21 system because what we have is we have a core number  
22 of direct staff people that are considered to be part  
23 of the direct costs. But a lot of times they bring  
24 in, on an intermittent basis, some other high-level

1 managers, other EPA offices like general counsel, we  
2 have to have a way to factor in their involvement as  
3 well as an indirect cost. That's somewhat of a  
4 catchall when we don't have a way to capture it by the  
5 system setup and operations cost, but it's a  
6 supporting cost and we call that the indirect cost.

7 Those are the three major cost  
8 categories that will be pulled into the formula. And  
9 the indirect cost operates as a percent factor. You  
10 take all the other direct cost, multiple it by this  
11 indirect cost factor or fraction and then that just  
12 adds that fraction of additional cost onto the total  
13 cost. That's how that works.

14 At the center at the proposed fee rule,  
15 and where we'll be going down the path with the final  
16 rule is this formula that we published to show how  
17 we're going to allocate those three types of program  
18 costs across all the different manifests to arrive at  
19 an appropriate fee for the various electronic paper  
20 manifest that will be submitted into the system. And  
21 what you'll see is sort of the hallmark of this  
22 proposed rule is that this is what we call a  
23 differential fee approach, where there will be a  
24 different fee assigned to submissions that are sent to

1 us as fully electronic because they involve very  
2 minimal labor costs. Our finding is that the  
3 marginal labor cost of processing the data from these  
4 manifests into the system is the key driver for the  
5 program costs.

6           Electronic manifests basically are just  
7 sent in, in an automated fashion, extracted into  
8 systems with very little human involvement at all.  
9 Have minimal marginal labor costs. They're the  
10 cheapest ones. Then you essentially have a schedule  
11 of the other paper submission types that have a  
12 sliding scale, if you will, of higher costs. The  
13 highest ones are the submission by postal mail because  
14 they have to be done manually. The mail has to be  
15 opened; things have to be sorted. Things have to be  
16 data keyed manually, Q/A and the like. Those are the  
17 high-level ones.

18           If we get an image file, slightly lower  
19 than the cost of the mail. Not a lot, but slightly  
20 lower. So there's a separate fee for the image file  
21 uploads. And of course, the actual submission of the  
22 data files to us where the attached image file is a  
23 very modest cost paper submission because basically  
24 it's going to be more of an extraction of data problem

1 as opposed to human entry.

2 **MR. ROBERT KLOPP:** I guess one of my  
3 questions is how do you feel about your authority to  
4 sort of raise and lower these fees?

5 Because as I was thinking about this,  
6 you know, in the beginning, there is going to be more  
7 paper. And over time, that's going to diminish, which  
8 will diminish your fees, which will make it difficult  
9 for you to recoup your costs. And so there's sort of  
10 odd dance that you have to do between recouping all of  
11 your costs as the way you collect fees change. And so  
12 as the number of paper things go down, you're going to  
13 have to raise the fees on the electronic stuff which  
14 seems like an odd thing to do.

15 **MR. RICHARD LASHIER:** You raise a very  
16 valid point. If you see the formulas that have been  
17 published in the proposed rule, you'll see that the  
18 problem, I won't say goes away, but what happens is  
19 that these program costs are factored in by the type  
20 of manifest and numbers of those different types of  
21 manifests being used.

22 If in fact, there's going to be a  
23 smaller number of paper manifests used over time, then  
24 those program costs will be allocated to the

1 electronic manifest. See, every two years we plan to  
2 actually refresh the fee schedule by running the  
3 latest program cost, the latest manifest numbers and  
4 the types of manifests being used and coming up with  
5 adjusted fees to actually reflect and be sensitive to  
6 the amounts of manifests being used.

7 But if in fact, the amount of paper  
8 manifest usage goes down a lot, I mean, our program  
9 costs should go down a lot, too, because you'll find  
10 the O&M costs really do dwarf the system development  
11 cost and the marginal -- the cost of staffing that  
12 paper center is one of the key drivers for our overall  
13 program costs.

14 If those paper manifests go down, we're  
15 happy. Because basically, we're left paying a much  
16 smaller cost per manifest for processing the  
17 electronic files. But there's still is that way for  
18 the formula to adjust to the numbers of manifests  
19 being submitted in the marginal costs of those  
20 manifests on a two-year refresh cycle, so we hope we  
21 never get too far off the mark.

22 Anyone else?

23 The last bullet on that slide, as part  
24 of line 2, I mean, you're right Rob; there is some

1 flexibility for the fees to change. Not only do we  
2 have a two-year cycle but our system administrator was  
3 very interested in being sure that when we proposed  
4 the rule that we had the means for the paper manifest  
5 fees to increase after four years if the amount of  
6 paper manifest, electronic manifest usage has not met  
7 this program goal. And a lot of our economic analysis  
8 and assumptions that we've made over the years based  
9 on the amount of concentration of manifests among a  
10 few of the larger companies, we kind of concluded that  
11 a 75 percent electronic usage goal after four years  
12 was kind of a reasonable benchmark for program  
13 success.

14 When we structured the formula, we  
15 began with an initial formula that is a little easier  
16 on the paper manifest in that it only takes the  
17 marginal labor cost of paper and makes those paper  
18 manifests bear those marginal labor costs. But the  
19 other paper center costs, like the building cost,  
20 overhead, would be shared by all manifests. Okay.  
21 That provides for a transition. If in four years'  
22 time, we don't see sufficient electronic manifest  
23 usage of adoption, then we take all the paper center  
24 costs and tell the paper manifest, you're going to

1 bear all the cost of paper, not just the marginal  
2 labor cost, but all of them. These fees go up a  
3 little bit for paper after four years as another way  
4 to show folks that there's consequences if we just sit  
5 on our duffs and don't really embrace electronic  
6 manifest usage when we think where we think we ought  
7 to.

8 So there actually is some movement in  
9 the formula already in the proposed rule approach  
10 where we will see an adjustment to the fee in four  
11 years to make paper more expensive if we don't see  
12 sufficient electronic manifest usage. And that's out  
13 there for comment as well.

14 As long as we have this total cost  
15 recovery, we do have this latitude of discretion to  
16 move things around a little bit, as long as we are  
17 accomplishing full cost recovery.

18 **MS. CYNTHIA WALCZAK:** I realize that the  
19 Act requires that one be allowed to use paper  
20 manifests, but does it preclude you from requiring at  
21 least an image file from the TSDFs? That is, do you  
22 really need a paper center or do you have the  
23 authority to require TSDFs to only transmit to you in  
24 electronic format even though it might only be a

1 scanned copy?

2 **MR. RICHARD LASHIER:** We put that out  
3 for comment. Even though our lawyers told us be  
4 careful because the statute seems to be very tolerant  
5 and permissive about letting folks continue to use  
6 paper, we put out for comment, what if we said the  
7 only way you can send data from paper to manifest to  
8 us is either sending us a data file or a scanned image  
9 of that manifest?

10 And the comments have been pretty  
11 favorable overall, from the facilities that commented.  
12 And these tend to be the larger players, the larger  
13 companies. They don't want to send paper to us any  
14 more than we want to receive the paper. So that's  
15 advantageous for us as that, as we said, there's lot  
16 of concentration of manifest numbers among the bigger  
17 players. The bigger players tend to be in the  
18 environmental technology counsel that Dan represents.  
19 And they have told us that they have no more interest  
20 in sending us or mailing us paper manifests than we  
21 have in opening the mail and processing it. But the  
22 question is are there others out there that we are now  
23 talking to who are also going to be on the receiving  
24 end of these manifests at these state-regulated waste



1 facilities that we're still trying to find out who  
2 they are and where they are. Are they going to be  
3 disadvantaged or feel overreached if we don't give  
4 them a different way -- at least enable some folks to  
5 send us a paper manifest if that's the less burdensome  
6 way.

7 Any other questions?

8 **MR. ROBERT KLOPP:** Just a comment,  
9 Rich. I'm sure other entities in this room and other  
10 persons in this room have had direct experience with  
11 rolling out large enterprise projects in the last few  
12 years. My only comment to EPA would be careful not to  
13 underestimate the help desk and bug tracking and bug  
14 correction costs of the pure e-Manifest system. Once  
15 it's up and running and a majority of the users are  
16 familiar with it, I personally would absolutely concur  
17 that the operating costs would be significantly lower.

18 **MR. RICHARD LASHIER:** Yes.

19 **MR. ROBERT KLOPP:** But on the frontend,  
20 they can actually dwarf the paper cost because  
21 everyone understands paper now, but even for  
22 sophisticated users, in my experience in the past two  
23 years answering dozens of phone calls a day, sometimes  
24 on a large software environmental initiative, even for

1 sophisticated users operating a new web interface, it  
2 can be daunting and it can suck up hours of time per  
3 one user.

4 **MR. RICHARD LASHIER:** Yeah. Okay.  
5 Thank you for that. Now, Barnes, I have a couple more  
6 slides in this section that I can get to now. Should  
7 I assume we will resume tomorrow and pick up after  
8 those two slides or should I try to rush through all  
9 the material that was in the presentation?

10 **MR. BARNES JOHNSON:** So let me see,  
11 where are you, Rich?

12 **MR. RICHARD LASHIER:** I'm at Slide 58  
13 right now. I can do 58 and 59 and then we have a  
14 break for questions. Maybe we can get that --

15 **MR. BARNES JOHNSON:** Yes. Why don't we  
16 get through those two slides and then --

17 **MR. RICHARD LASHIER:** It'll call it a  
18 wrap and we'll resume tomorrow?

19 **MR. BARNES JOHNSON:** Yes.

20 **MR. RICHARD LASHIER:** Okay. I won't  
21 try to talk a mile a minute and get it all in. Steve,  
22 did you have something you wanted to offer?

23 **MR. STEPHEN DONNELLY:** No.

24 **MR. RICHARD LASHIER:** Okay. Good. All

1 right. So we have two slides to get through. And  
2 again, this is the part of the proposed rule that  
3 talked about the revisions process; how we're going to  
4 go about changing the formula -- changing the fees and  
5 making those new fees known to the public. So what we  
6 agreed to is that the user fees in the proposed rule  
7 would be updated every two years.

8 We recognize we had to be somewhat  
9 nimble to be able to respond to changes in program  
10 cost. So we did it a couple of steps by again,  
11 rerunning the formula. We tried to use the same  
12 formula and as long as we're using the same formula,  
13 we don't know if we have to do a new rulemaking.  
14 Basically, we're still applying the regulatory  
15 methodology by using that formula. We're just  
16 plugging in new number.

17 Yes?

18 **MR. ROBERT KLOPP:** I guess I'm  
19 wondering also about macroeconomic things, right? I  
20 mean, it just seems like one of those -- I mean, you  
21 guys would know way better than me, but this seems  
22 like the amount of material that is going to be  
23 shipped as tied to industrial activity. And if  
24 industrial activity goes up because the economy goes

1 up, then you make more money. And conversely, you  
2 could be the victim of an economic downturn. I would  
3 say that it's remarkable the number of disability  
4 claims tracked so closely to whether an economy is  
5 good or bad, right?

6 **MR. RICHARD LASHIER:** Yes.

7 **MR. ROBERT KLOPP:** And so I guess I  
8 wondered how you were thinking about a shortfall in  
9 revenue because of an economic downturn.

10 **MR. RICHARD LASHIER:** Good question. I  
11 don't think we actually have any kind of an adjuster  
12 in the fee formula to talk to account for economic  
13 activity as a macro-measured item. I mean, we do have  
14 adjusters for inflation. The idea as they are changes  
15 in the cost of money measured by the sort of price  
16 index, we'd be able to adjust the fees between the  
17 first and second year to account for an inflationary  
18 factor.

19 Well, I don't have a perfect answer to  
20 that question because we didn't really have an  
21 economic activity adjuster in there. I will say that  
22 compared to many other fee programs, committing to  
23 doing this running the formula every two years is  
24 considered very ambitious. There are a lot of fee

1 programs that they don't change until congress  
2 legislates new fees or they don't change until maybe  
3 10 years they decide it's time to do a new fee rule.

4 So while I see your point about  
5 economic activity causing some fluctuations, we're  
6 being fairly nimble, as an administrative process in  
7 being able to and committing to it and adjusting the  
8 fees at two-year intervals. So hopefully we would  
9 capture some of that economic activity effect in those  
10 two-year reruns.

11 **MR. ROBERT KLOPP:** Again, and then  
12 maybe sort of a related thing, as you've mentioned  
13 earlier is that you're allowed to sort of have \$2  
14 million over.

15 **MR. RICHARD LASHIER:** Yes.

16 **MR. ROBERT KLOPP:** As the percentage of  
17 the total cost of this thing, does the \$2 million give  
18 you a reasonable buffer against that kind of stuff or  
19 is it not enough to give you a buffer at all?

20 **MR. RICHARD LASHIER:** It's not much of  
21 a buffer we don't think, at this time, given the  
22 projections in both the system development cost  
23 estimates as well as the operating costs initially.  
24 It's nice to have a buffer, but they didn't really fix

1 that buffer at a level, asking us what we thought  
2 would be appropriate. Of course, at the time,  
3 congress came up with that buffer there. They thought  
4 we would have a system for \$6 million. For whatever  
5 reason, they thought there was a \$6 million system out  
6 there so I guess they figured \$ 2 million was not that  
7 outlandish, but we have found a course that things are  
8 much more significant than that.

9 Any other questions?

10 Okay. So we have these adjusters in  
11 the formula. Not only are we going to rerun the  
12 formula at 2-year intervals, but new budget numbers  
13 and new manifest numbers based on the actual numbers  
14 of manifest most recently used. But we actually have  
15 the CPI adjuster to account for inflation. And we  
16 also have a feature that we proposed to try to  
17 recapture any revenue we lost due to imprecise  
18 estimates of manifest numbers.

19 This might get back at the point you  
20 raised a minute ago. If we were off outlandishly with  
21 their estimates of manifest numbers because activity  
22 changed, this would enable us to recapture their  
23 revenue. What would happen is if we have a lesser  
24 number of manifests in the next cycle, they're going

1 to pay a higher fee because we're going to figure out  
2 how much revenue we came up short in the prior cycle  
3 and make sure our targets recover that goal by  
4 incremental costs and the new cycle manifest to  
5 recover that lost revenue.

6 Again, it's two years post-factual, but  
7 the idea that we do have the ability to adjust, I  
8 think, in a way, for this economic activity because  
9 our numbers, our estimates would be off because of  
10 what transpired with the economy. So that would help  
11 us.

12 And we talked about sanctions a little  
13 bit, too, in the proposed rule as well. The idea,  
14 particularly as we got more reliant upon there being  
15 an invoicing of facilities for previous services  
16 provided and then waiting for payments, a 30-year  
17 grace period for payments or what-have-you. There's  
18 this issue of we don't want the folks to think that  
19 they should take too lightly the obligation to pay  
20 their fees.

21 We need to have some discipline imposed  
22 by proposing some sanction to be sure that we induce  
23 prompt payment. And the first tier of sanctions  
24 really are based on Federal Claims Collection

1 statutes. Treasury has shared with us their federal  
2 claims authority. And after a claim is 30 days past  
3 due, there is an interest sanction that applies  
4 automatically.

5 Right now it's 1 percent is the  
6 combined federal rate interest factor that suggests it  
7 each year. But right now it's at 1 percent. And if  
8 it remains past due for 90 days, there is a distal 6  
9 percent penalty that those operate under existing  
10 federal claims collection statute. So that first tier  
11 is the financial, 30 days interest, one percent.  
12 After 90 days, 6 percent penalty.

13 And the second tier is more of a -- we  
14 proposed the idea that maybe there is a way that we  
15 could publish on the website, identify those  
16 facilities are delinquent in their payments. I guess  
17 you can say we're trying to shame them into being  
18 prompt payers. But the Hall of Shame, if you will.

19 Anyway, to see if there was some way,  
20 short of trying to pull permits and the like,  
21 incurring prompt payment and support through the idea  
22 of a delinquent payer's list. So we got some comments  
23 on that as well. Not too many supported that second  
24 tier, by the way.



1           And the final tier was the idea that if  
2           in fact you are not prompt with your payment, if  
3           you're not making your -- paying your manifest fees  
4           responsibly that it would give rise to what we they  
5           call a violation of the statute. There was a  
6           violation of the regulation for an incomplete  
7           manifest. Not complete until its paid for.

8           If you have these incomplete manifests  
9           that could rise to a RCRA civil enforcement order  
10          where RCRA inspectors could -- EPA regions could then  
11          either order you to pay the past due manifest amounts  
12          or they could bring an action for a civil penalty.  
13          Those are the consequences for a violation of the RCRA  
14          statute: a civil penalty or an order. In that way,  
15          the outstanding fees could give rise to an enforcement  
16          sanction as well. And those are the different  
17          sanctions and different tiers of sanctions that we  
18          proposed in the Rule.

19          And tomorrow when we get into this,  
20          I'll give you a flavor of what we heard from the  
21          comments. I'm just trying to give you an overview of  
22          what we proposed. And tomorrow I'll give you a little  
23          more of the flavor of what we heard in the comments in  
24          response to each of these things since that is what we

1 ought to do that is moved from that discussion of what  
2 the comments said, and ask you in a few areas to help  
3 us reconcile those comments.

4 And I guess that's where I'm going to  
5 break for the day.

6 **MR. BARNES JOHNSON:** Okay. John, last  
7 word for the day and then we're going to break.

8 **MR. JOHN RIDGWAY:** It's a clarifying  
9 question. On that last scenario of a potential civil  
10 enforcement, do you see the EPA regions taking that  
11 action or would that be at headquarters? And for the  
12 two states that are not authorized, it kind of  
13 defaults, I assume, to the regions. Any clarity on  
14 that?

15 **MR. RICHARD LASHIER:** That more than  
16 likely would default through regions. Again, we're  
17 trying to avoid the situation where we would be asking  
18 the authorized states to be our collection agents. So  
19 in all likelihood, this could be a federal civil  
20 action brought by the EPA regions.

21 **MR. JOHN RIDGWAY:** Okay. Thanks.

22 **MR. BARNES JOHNSON:** Okay. So that  
23 concludes our conversation for today. I want to thank  
24 the Board for their engagement today.

1

(Adjourned for the day)

2

## 1 DAY 2

2 MR. FRED JENKINS: Good morning. If I  
3 could ask everyone to get seated we're going to get  
4 started.

5 Good morning. I want to thank everyone  
6 again for coming to Day 2 to our first e-Manifest  
7 Advisory Board meeting. Thank you for a very  
8 productive day yesterday. Before we get started I'm  
9 just going to go over of a couple of housekeeping  
10 items and then we'll go ahead and move forward and  
11 I'll turn the meeting over to our e-Manifest Advisory  
12 Board Chair, Barnes Johnson. So today we're going to  
13 finish up the EPA presentations that occurred  
14 yesterday. We have one more presentation.

15 After the EPA presentations we will  
16 then go on to the public comment period. We'll open  
17 the public comment period. If you are here and you  
18 want to provide oral public comments, please sign up  
19 on the desk right outside this room as oral public  
20 commenter and we'll have you lined up to be an oral  
21 public commenter.

22 Given that you hadn't made prior  
23 arrangements we ask you please keep your oral public  
24 comments to five minutes. Since late yesterday and

1 this morning I have received a couple of emailed  
2 public comments to me that I am right now distributing  
3 to the advisory board.

4 And also, those are going to be  
5 available on that back table for the public to view  
6 and those are going to go into the docket after this  
7 meeting. One of those public comments was more of a  
8 series of questions but we're treating it as a public  
9 comment for the purposes of this meeting and for the  
10 panel's consideration. But there's a long line of  
11 questions than comments. But those are going to be,  
12 like I said, considered as public comments. With that  
13 said, I don't have any more to add.

14 I'm going to turn the meeting over to  
15 Barnes Johnson, the Chair of the e-Manifest Advisory  
16 Board, Director of the Office of Resource Conservation  
17 and Recovery.

18 **MR. BARNES JOHNSON:** Okay. Thanks,  
19 Fred, and morning everyone.

20 Okay. Are we on slide 61 of the  
21 package? Yes. I think where we are, just to kind of  
22 review yesterday. Rich gave you kind of the history  
23 of the e-Manifest piece. Steve and Scott gave an  
24 overview of the system and our development approach.

1 We have talked about some of the operation and  
2 maintenance pieces. Rich has talked about the first  
3 part of the user fee rule but we have a second part of  
4 the user fee rule, which is we needed to make some  
5 conforming changes to the manifest regulations  
6 themselves.

7 That's what we're going to tackle on  
8 page 61. And then Rich is going to dive right into  
9 the discussion, the comments that we got on the  
10 package more broadly, all of the issues we went  
11 through yesterday, sort of going back through them  
12 from the vantage point of the public commenters and  
13 what they rendered. Rich take it away, slide 61 of  
14 the package.

15 **MR. RICHARD LASHIER:** Thank you,  
16 Barnes. Good morning everyone. Resuming on slide 61.  
17 And here we're again just summarizing the key elements  
18 of the user fee proposed rule, the wherefore and the  
19 why of some of these requirements. And then we'll get  
20 into, in a few minutes, some of the responses we  
21 received to those proposals during the comment period.

22 And beginning on slide 61, as Barnes  
23 indicated, while most of the discussion yesterday was  
24 about the related user fee specific elements of the

1 proposed rule, there were three other items in the  
2 proposed rule that are manifest related but not  
3 specific user fees.

4 And it's typical of regulations, there  
5 are always a few other things that kind of go along  
6 for the ride when a proposed rule is out there and  
7 pending. These were the three that went along for the  
8 ride with the fee proposals. But they're significant  
9 and they do have implications for e-Manifest's  
10 operation, so it's worth taking a few moments to talk  
11 about them. The first one is what we call the non-fee  
12 transporter regulation.

13 And this gets to the issue of the  
14 amendment proposed in the rules that would allow,  
15 during the time that a shipment is actually en route,  
16 to allow a transporter to substitute or add another  
17 transporter on the manifest, to respond to either an  
18 emergency preventing the delivery of the material to  
19 the indicated transporter designated facility or for  
20 transporter convenience.

21 When we talk about transporter  
22 convenience what we're referring to is the fact that,  
23 in the current RCRA context oftentimes waste, while

1 they're on route, will be sent to 10-day transfer  
2 facilities.

3           These are facilities where waste can be  
4 offloaded, stored for up to 10 days without a permit,  
5 reloaded onto other vehicles or containers and then  
6 sent back along on their way to their destination.  
7 They're non-permitted 10-day transfer facilities that  
8 are operated for transporter convenience so that  
9 logistically the materials can be matched with the  
10 appropriate vehicles and commerce can continue without  
11 great interference or without onerous permit  
12 conditions.

13           We've heard over time that oftentimes  
14 it was helpful to enable a transporter, when waste was  
15 being stored at one of these facilities, if there was  
16 another vehicle that was leaving sooner than the  
17 designated transporter that could get the facility  
18 more quickly, more promptly with less inefficiency,  
19 maybe there's a way that transporters should be able  
20 to make these changes to the manifest for the  
21 generator in order to promote transporter efficiency  
22 and move waste to another vehicle to the facility.

23           What we did was we proposed to add the  
24 issue of transporter convenience as well as the



1 emergencies as justification for making these  
2 transporter substitutions as well as providing a  
3 little more streamlined process. The current  
4 regulations assume that the generator has complete  
5 control of the transaction. As I mentioned yesterday,  
6 the manifest was created by Congress as a remedy for  
7 what had been seen as unscrupulous acts by unregulated  
8 transporters and brokers in the past causing waste to  
9 end up in unregulated sites, the old midnight dumping  
10 scenario.

11 The manifest was meant to be the  
12 generator being in control of the transaction. The  
13 generator fills out the manifest indicating all the  
14 handlers that they have identified as being authorized  
15 to carry their waste.

16  
17 When the regulations were first issued  
18 we had a very limited exception where if an emergency  
19 occurred and we could not deliver the waste just with  
20 that designated transporter to a facility, that the  
21 transporter had to actually contact the generator  
22 explicitly, explain the situation, and obtain the  
23 generators direction to substitute an alternate  
24 facility or another transporter with the generator's

1 consent. It was meant to be very much the generator  
2 in control. An issue arose, the generator had to be  
3 contacted and give its consent explicitly to that  
4 change.

5  
6 In the current scenario, the current  
7 arrangements, we know that many generators don't  
8 really care to exercise that amount of control over  
9 their transactions. They are pleased to have service  
10 companies able to handle the logistics, the brokering  
11 of their transactions for them. In a way, that was  
12 becoming an impediment to efficient transportation.  
13 We proposed both the idea that for not only  
14 transporter convenience, as well emergencies, you  
15 could make these changes, but the changes could occur  
16 either with an explicit call to the generator or the  
17 generator could authorize in advance to their service  
18 contractor terms to have the transporter to act as  
19 their agent to make the changes on their behalf.

20 A very limited agency just to  
21 substitute other transporter on the generator's behalf  
22 without making an explicit call each time when there's  
23 a need for these transporter substitutions. That was  
24 the rhyme and the reason for the change and that was

1 what we propose to both expedite or to open up the  
2 avenues for making these changes both for emergencies  
3 and convenience as well as giving the process more  
4 convenience than actual person to person or call an  
5 explicit contact. That's what the rule proposed on  
6 the transporter changes during transportation.

7 Another change that occurred was the  
8 issue of manifest corrections. Here we're referring  
9 to corrections that need to be made to manifest data  
10 after the initial manifest has been submitted to the  
11 system and is already a data record in the system  
12 reflecting that transaction. Then we find for various  
13 reasons that data needs to be changed, there's an  
14 error.

15 The EPA proposed, in our fee rule, that  
16 the TSDFs, the receiving facilities I should say, are  
17 responsible for making these corrections in the  
18 system. And they must do so within 90 days of receipt  
19 of the waste. Now the reason for the 90-day window on  
20 making these changes is because in the one year rule  
21 from 2014, we indicated that a reason for that 90-day  
22 safe harbor that we included in that rule for  
23 releasing information from the system to the public  
24 was because we were aware that that oftentimes there

1 were issues with manifest data. There were sometimes  
2 discrepancies and exceptions that were being cleared  
3 up, as well as data corrections that often were  
4 commonplace in the system that needed to be cleaned  
5 out the system before we wanted to have information  
6 released to the public.

7 It was advantageous to get a final set  
8 of data in the system before we made it available to  
9 the public and raised issues about whether that was  
10 final data, how much they can rely upon the data in  
11 the system. We announced that safe harbor of 90 days  
12 post receipt to provide for this data clean-up period  
13 as a regular course of dealing.

14 There were other reasons for it too.  
15 We were aware of the people that raised a concern  
16 about terrorists going into the system as members of  
17 the public and obtaining data on materials that might  
18 be weaponizable. Having a 90-day safe harbor would  
19 prevent them from having access to that data for at  
20 least 90 days. That would certainly be a cooling off  
21 period where you would not at least have access to the  
22 shipment while it's pending. And there was also  
23 concerns that the industry had raised about their  
24 customer list information being available.

1                   While this wasn't the CBI treatment  
2                   that they had requested in their comments on the One-  
3                   Year Rule, the safe harbor does provide some cooling  
4                   off as well so that there would not be that release of  
5                   information on pending transactions; they might go in  
6                   there and try to raid each other's customers during  
7                   that period of time when the transaction is fairly  
8                   ripe.

9                   It had a number of reasons for it. But  
10                  we thought it made sense in talking about the  
11                  corrections process to align the corrections process  
12                  for data records in the system with the 90-day safe  
13                  harbor. We proposed the idea that we wanted to have  
14                  the data cleaned up, the corrections process,  
15                  consistent with a 90-day window, completed within 90  
16                  days.

17                  We further proposed that we wanted to  
18                  have the changes made electronically by the TSDF.  
19                  We're not talking about the generators and  
20                  transporters in the field; we're talking about the  
21                  receiving facilities that have more sophisticated  
22                  office equipment. No reason to have them submitting  
23                  this to us by mail. This is an electronic system  
24                  after all.

1                   We wanted to have the correction  
2                   submissions made to us by electronic means. And of  
3                   course we discussed in the proposed rule also, the  
4                   idea what needed to be included in that correction  
5                   submission; identified the items of manifest being  
6                   corrected, the data that was previously entered and  
7                   what it should be when corrected. And then a  
8                   certification, consistent with the agency's CROMERR  
9                   regulations, that the data as corrected will make the  
10                  information complete and accurate.

11                  It would be a CROMERR certification,  
12                  electronic certification, that the data as corrected  
13                  is an accurate and complete representation of the  
14                  transaction. And we indicated as well that they could  
15                  either do that in a one-off basis, they go on to the  
16                  system and make a certification to just one record.  
17                  Or they could do a batch submission where they would  
18                  identify a number of records at one time being  
19                  corrected and do one certification for all the  
20                  attached corrections. A batch certification was  
21                  proposed as well as being permissible.

22                  And we tried to provide a modicum of  
23                  process to identify for folks how we saw the  
24                  corrections process being carried out. Again, we

1 indicated we wanted the TSDFs to be responsible for  
2 making the changes in the system, not to have anybody  
3 willy-nilly going in there and changing data, the idea  
4 of making that a certain role for the TSDFs to have.

5 But we indicated that the TSDFs could  
6 initiate those changes themselves, or they could  
7 initiate the change in response to a notification by  
8 another interested party either being an authorized  
9 state that has interest in the transaction or one of  
10 the other handlers who identifies an error. Either  
11 way we said that the correction process could be  
12 initiated, but would have to be completed by the TSDF  
13 either in response to their own volition or a  
14 notification by one other interested party of an error  
15 that needs to be corrected. Yes?

16 **MR. ROBERT KLOPP:** This is Rob Klopp.  
17 I know that we talked yesterday about the fact that  
18 there's this sort of hybrid thing. And in the picture  
19 we saw yesterday it put the TSDF in charge of kind of  
20 finalizing and doing most of the work in this process.  
21 But I guess it wasn't clear to me whether that's the  
22 long-term view of the process or just the short-term  
23 view while we're in this hybrid mode. I wondered if  
24 you could comment on how that process might change if

1 we allow electronic-ness to happen as the transporter  
2 has control and stuff like that.

3 **MR. RICHARD LASHIER:** I mean you're  
4 right that initially we discussed the hybrid; and  
5 certainly we'll talk about some of the comments we  
6 received on the hybrid as well. There was an  
7 assumption there that that the receiving facilities  
8 are taking a leading role in responsibility for the  
9 submission of the final copy. In all cases the final  
10 copy submission, the billable event will be the  
11 responsibility of the receiving facility; because we  
12 recognize that is the best representation of the data  
13 after the shipment has arrived and folks have verified  
14 what's on the vehicles and that it comports with what  
15 was described in the manifest. That is the best  
16 representation of the data and certainly the  
17 corrections process should make it even better.

18 But as regards the hybrid, as we  
19 discussed and as you hear it discussed as sort of this  
20 interim phase with implementation of e-Manifest,  
21 certainly most of the onus will be on the TSDFs for  
22 the submission of data.

23 But the expectation is that in the  
24 subsequent phases, bring the generators and



1 transporter into the fold as well so there will be  
2 greater participation by the generators. Initially  
3 they'll receive authorization to enter the system to  
4 receive copies electronically at the back end of the  
5 process. But the hope is that beyond that point, as  
6 the e-Manifest becomes more established, they will  
7 actually be authorized in the system to create  
8 manifests and sign manifests in the system as well.

9           And that is the challenge that we're  
10 talking about when we have the charge question. What  
11 can we do to foster the migration, if we use the  
12 hybrid, to greater participation by other handlers  
13 beyond the TSDFs? We'll talk about that a few  
14 minutes. But we certainly want to foster  
15 participation by all handlers when they're manifesting  
16 and not have it end up being the responsibility of  
17 TSDFs alone to make electronic submissions and sign  
18 electronic submissions, but greater participation by  
19 the transporters and generators as well.

20           But at the beginning, clearly it's  
21 going to be the TSDFs that are submitting the data  
22 electronically and others will be still using The  
23 paper process. Getting from that paper scenario to  
24 something more electronic is the challenge for

1 utilizing the hybrid. Sorry, I took a little more  
2 time than perhaps we should on all these issues, but  
3 that's an important distinction.

4 **MR. BARNES JOHNSON:** But Rich, the  
5 bottom line is the hybrid is the interim solution.

6 **MR. RICHARD LASHIER:** It is an interim  
7 solution. It gets us the opportunity to stand  
8 something up that will enable us, for the first time,  
9 to have a complete set of manifest data. That's  
10 something we didn't mention yesterday. However we do  
11 it with a hybrid and all the manifests being submitted  
12 at the back end by the TSDFs, this is the first time  
13 the EPA and the nation has had a unified data system  
14 of all manifests. Because right now EPA does not  
15 collect any manifests. The only ones collecting the  
16 manifests are the 20 or so states that care to have a  
17 tracking system.

18 There is a very incomplete picture of  
19 hazardous waste management if we rely upon just having  
20 20 states collect manifests and tracking those data.  
21 Even with the hybrid as an interim solution we will,  
22 for the first time, have a national picture of  
23 hazardous waste management. A significant  
24 accomplishment.

1           The bottom line is that we tried to  
2 propose both expectations for who would make the  
3 corrections, how did it come about, as well as a  
4 process where, by Day 90, we would have the final data  
5 in the system entered by the TSDFs with participation  
6 by interested states or parties on the manifest.

7           We tried of the foster that by  
8 describing the corrections process and some of the  
9 timelines for that. Moving on now to slide 62. And  
10 of course, the other non-fee related proposal was also  
11 dealing with the hybrid. There's already been  
12 discussion of that and we'll discuss the comments on  
13 that in a few minutes. I won't repeat the discussion  
14 about the hybrid since this has already come up a  
15 number of times. But we'll get there in a few minutes  
16 when we talk about the comment summary which is where  
17 we're at now.

18           **MR. JUSTIN WILSON:** Rich? Justin  
19 Wilson. Just for my understanding, even with the  
20 hybrid approach, why would the generator not have  
21 access to that final data to make corrections as a  
22 TSDF would?

23           I mean, what I'm hearing is the TSDF is  
24 the one that upload the data, they have access to make

1 changes. But I don't see why the generator, even in  
2 the hybrid system, wouldn't have that same access to  
3 change their data if needed, to correct their data.

4 **MR. RICHARD LASHIER:** They may very  
5 well. I think that in discussions about what  
6 generators minimally need to do to participate in  
7 manifests the suggestion is minimally they have to  
8 have an email address so they can receive  
9 communications from the system. Clearly if there's a  
10 change to the manifest and it's emailed to the  
11 generator, there's opportunity for the generator to  
12 respond to that correction when they obtain that  
13 correction notice on the email.

14 But we did have comments saying if you  
15 have this, particularly with a hybrid in place and the  
16 assumption that generators are not participating fully  
17 electronically, how can we be assured that the  
18 generators will have the opportunity to participate if  
19 they're offline and holding on to paper. It was a  
20 comment that was raised but I think there are ways  
21 around it.

22 **MR. JUSTIN WILSON:** Okay, thank you.

23 **MR. RICHARD LASHIER:** Okay. We're  
24 going to talk a little bit about the comment summary.

1 Again, I want to emphasize that for the role of the  
2 advisory board we actually have three areas that we're  
3 focusing on where we're providing charge questions  
4 where we are asking for your advice. Those three  
5 areas are the corrections process, we just summarized  
6 that a minute ago; the issue of the payment options,  
7 the monthly invoicing approach versus the advanced  
8 fixed payment approach that we talked about yesterday;  
9 and of course the hybrid manifest, which you've heard  
10 about several times.

11 Those are the three areas where we're  
12 trying to focus your particular attention when we get  
13 the charge questions. I'm going to provide a summary  
14 of some of the other areas where we got comments, but  
15 I don't want to have a long, drawn out discussion of  
16 those because those are areas where the workgroup is  
17 actively involved and working through the issues in  
18 the regulatory development way with our EPA work  
19 group. We don't need to bother you and ask you to  
20 become members of the workgroup on all these issues.

21 But on the three issues in the charge  
22 questions, those are where we want to focus your  
23 particular attention. As I go to some of the other  
24 issues, I'm giving them to you for informational

1 purposes, but not saying, oh, let's have a long  
2 discussion about each one these areas. Because those  
3 have actually been, obviously, delegated to our  
4 workgroup for action. I feel the workgroup is quite  
5 competent to handle most of these. Okay. That's a  
6 little disclaimer so that we try not to get into a  
7 long, drawn out discussion of every issue on the  
8 workgroup agenda.

9 Okay. EPA received, in fact, 25 sets  
10 of distinct comments at the close of the comment  
11 period on September 26. Eight of those comments were  
12 from hazardous waste management firms or their  
13 association, the Environmental Technology Council.  
14 The Cement Kiln Recycling Coalition was another  
15 association of a type of TSDF. And there were  
16 transportation interests like the Association of  
17 American Railroads included in that eight comments as  
18 well.

19 There were six comments from Pacific  
20 hazardous waste generators. There were seven comments  
21 that we see from RCRA authorized state agencies. And  
22 there were four from other interests. Three of them  
23 were just anonymous submissions that I can't really  
24 attribute to anyone specifically but they arrived in

1 our docket anonymously. That's the makeup of the 25  
2 sets of comments. And the significant comments that  
3 we received from these submitters touched upon all the  
4 different areas identified in the NPR and the comment  
5 headings.

6 One of the things we did that was novel  
7 in this proposed rule was we actually use this GSA 18F  
8 comment submission approach where you could go online  
9 and provide your comments electronically through this  
10 pilot effort to index comments by the heading types.

11 We also ask folks since they had the  
12 trouble to identify the topic headings for the pilot  
13 to, when they submitted their written comments in the  
14 more conventional fashion, to also use those same  
15 topic headings, which helped a lot to try to digest  
16 and sort out the comments when they did arrive.

17 We did receive significant comments.  
18 Fortunately, most folks did cooperate by categorizing  
19 their comments by the topic headings. Those are the  
20 areas that we are focusing on for key issues. All  
21 right. Moving on.

22 Again, these two areas are for  
23 information only. We did receive a number of comments  
24 on the whole question of public access and who pays

1 for it. Industry commenters were concerned that they  
2 would be in some way subsidizing the cost of providing  
3 access to the public.

4 You know from Maddie's opening  
5 yesterday he feels very strongly that e-Manifest  
6 should be a very transparent thing, allowing  
7 communities access to information on waste movements  
8 through their communities and the sites near them.  
9 The proposed rule as identified, consistent with  
10 federal budget policy in OMB Circular 825, that the  
11 primary beneficiaries being the regular users are  
12 paying the fees. There are some incidental  
13 beneficiaries, being the members of the public, who  
14 might also access the system just to access data.  
15 They're the data consumers.

16 We tried in the proposed rule to tee up  
17 the idea that there are two distinct communities of  
18 interest. There's the user community, the users that  
19 are the regulated community, who are responsible for  
20 paying the fees. And then there's the data consumers  
21 who might also access the system just to acquire data  
22 from the system, but who aren't actually members of  
23 the regulated community.



1           We indicated in the proposed rule that  
2 we saw that the primary beneficiaries, the regulated  
3 community users, were responsible for paying the fees,  
4 and there could be some incremental increase in their  
5 fee to cover the cost of providing the public-facing  
6 module, the members of the public would have, to  
7 acquire the data. We did not see the cost of setting  
8 up that public facing model to be great. I think we  
9 had done some back of the envelope calculations  
10 showing there would be a pennies per manifest increase  
11 in the user fee to cover the cost of the of the other  
12 user access.

13           But we asked for comment on that and  
14 not surprisingly the industry commenters expressed  
15 some concern about their user fees being increased to  
16 subsidize, in some respect, the cost of user access.  
17 And some even fashioned an argument that since the  
18 user definition in the statute was restricted to the  
19 user community, the regulated community, that perhaps  
20 it was never intended that the public would actually  
21 be able to access the system, and therefore, how could  
22 we charge them fees to do something like that.

23           And we also heard comments from members  
24 of the industry and the Department of Defense, the

1 Navy, expressed concerns. This is where we heard the  
2 first concern about the homeland security issue with  
3 the system. There was concern that allowing the  
4 public access to the system, even after 90 days for  
5 datamining, they could use that for illicit purposes.  
6 There was concern that hostile actors might, even  
7 after 90 days, still be able to discern from the  
8 system shipment patterns.

9 That they might find out that on a  
10 certain day of each month or certain alternate number  
11 of weeks, maybe a particular type of material is  
12 shipped from a Department of Defense facility, and it  
13 might be one that they might have interest in as being  
14 weaponizable. They indicated that concern to us that  
15 even with our 90-day embargo, that there still might  
16 be concerns about people accessing the system with  
17 homeland security concerns.

18 And they recommended that we look at  
19 some of the DHS rules and the appendix to the DHS rule  
20 on chemicals of interest to see if there might be some  
21 way of affording protection to those types of  
22 materials and those manifests.

23 On the second category in this slide we  
24 asked about the users and transactions that would be

1 subject to fees. And here we had general agreement  
2 with everything on that slide. The regulated  
3 community understands that the designated facilities  
4 are the appropriate party to be assessed the fees.

5 They can go back to their generator  
6 customers, if they wish, to be reimbursed for their  
7 fees. I think there was general agreement they did  
8 not want EPA interfering with customer relationships  
9 by going after generators. And certainly, as we  
10 mentioned yesterday, are not interested in setting up  
11 100,000 payment accounts to charge the generators.

12 Yes?

13 **MR. ROBERT KLOPP:** This is Rob. Just a  
14 quick question. I understand that the generators  
15 think that the receivers should be paying the fees.  
16 But do the receivers all agree that they should be  
17 paying all the fees and not anybody else?

18 **MR. RICHARD LASHIER:** Among those who  
19 expressed written comments, I think the comment was  
20 generally yes. They understand that that's probably  
21 the appropriate outcome. That the receiving facility  
22 would be the party paying for the fees. With the  
23 caveat that there was concern about subsidizing public  
24 access.

1                   **MR. BARNES JOHNSON:** But the real  
2 answer your question of course, Rob, is no. Not  
3 everyone agrees to pay fees. I mean let's face it.

4                   **MR. RICHARD LASHIER:** Yeah. But the  
5 ones that submitted comments grudgingly said that we  
6 understand the EPA's reason for doing this. We  
7 believe it's probably the more appropriate response.  
8 Which is what makes it a rational decision in the  
9 record for the final rule.

10                  **MR. BARNES JOHNSON:** That helps.

11                  **MS. CYNTHIA WALCZAK:** Cindy Walczak.  
12 Quick question. Hazardous waste receiving facility  
13 and designated facility is the same as it concerns  
14 state regulated or state-only waste. Which do you  
15 mean? Are you only going to tax haz-waste TSDFs? Or  
16 I'm sorry, pass along fees, to any designated or  
17 receiving facility?

18                  **MR. RICHARD LASHIER:** Any designated or  
19 receiving facility. In the future, I'm going to try  
20 to be more specific and say receiving facility rather  
21 than using the more terms of art type things. Like  
22 designated facility is a term of art because it's  
23 defined in the regulation as being the permanent RCRA  
24 facilities. We know that the state-regulated

1 facilities are a broader class than that. We should  
2 be saying receiving facilities on manifests will be  
3 the ones responsible for paying fees.

4 And people have indicated, of course,  
5 it will be a challenge finding all these states  
6 receiving facilities to bring them into the payment  
7 community, into the fold; but that certainly is within  
8 the jurisdiction to do so.

9 **MS. CYNTHIA WALCZAK:** Similarly, have  
10 you found them to be engaged, these non-hazardous  
11 waste facilities that are in states that require  
12 manifests to go to non-haz waste facilities?

13 **MR. RICHARD LASHIER:** They have not  
14 been engaged to any significant extent in this  
15 rulemaking. Which is a risk. But, you know, we  
16 provide the public processes, but if they don't take  
17 advantage of it, oftentimes we are not aware.

18 And of course, there was agreement not  
19 only who the paying party should appropriately be, but  
20 also the idea that the final signed manifest is really  
21 the main and appropriate billable event in the system,  
22 with few, if any, events being charged. That's an  
23 important distinction there.

1                   We had talked in the proposed rule  
2                   about there being perhaps other transactions, like the  
3                   corrections process, continuation sheets, return of  
4                   stray documents in the system perhaps being billable.  
5                   But we got a lot of significant comments saying no,  
6                   focus on the final manifest submission, don't charge  
7                   for continuation sheets. There was even a question  
8                   raised about some of the milk runs. We're actually  
9                   looking at that as well. Milk runs being the  
10                  transactions that kind of build on the truck while  
11                  they're out making pickups.

12                  Manifests where materials are added as  
13                  they go through several pickups, whether there's a way  
14                  to try to consolidate the fee for that onto one  
15                  manifest rather than having each individual manifest  
16                  being charged. We have no opinion on that today, but  
17                  we understand the comment was made. Yes?

18                  **MR. ROBERT KLOPP:** This is Rob. I  
19                  guess I'm wondering, if there's no fees paid by the  
20                  generators or the transporters, then what kind of  
21                  discussions have you had about how you're going to  
22                  incentivize them to use the system? Because it seems  
23                  like you don't have a stick.

1                   **MR. RICHARD LASHIER:** Getting back to  
2 the heavy involvement of the receiving facility  
3 community, the TSDFs. They, Rob, are pretty much the  
4 stick. Sort of like Walmart has been viewed as a  
5 stick to getting their supplier to participate in  
6 their systems. I have to let you know that the TSDF  
7 community has been the major proponent of e-Manifest  
8 over the years because they will garner the most  
9 efficiencies and savings from the system. I wish it  
10 were a case where we had more direct influence on  
11 generators.

12                   By in large, it's going to be the case  
13 it's going to be the TSDF receiving facilities,  
14 through their contacts with their customers, that are  
15 going to try to sell this to the generator community  
16 for the savings. And we expect it will be the TSDFs  
17 and their allied transporters that will bring the  
18 portable equipment out to the generator sites to make  
19 that happen when we actually are bringing the  
20 generators into the fold. If there was some other way  
21 to more aggressively incentivize the generators I  
22 would like to hear it.

23                   But it's going to be more an effort by  
24 the TSDF community to bring those generators into the

1 fold because they're going to garner the major  
2 advantages by having the paperless process.

3 **MR. THOMAS BAKER:** This is Tom Baker.  
4 I agree with what you said, Rich, exactly. But just  
5 to point out one point, the only user that can't be  
6 leaned on in this transaction is the transporter  
7 because they're typically not engaged with the TSDF in  
8 any kind of billing or as a customer. Just to point  
9 that out. It's an important user of the system, but  
10 they're not going to likely allocate any kind of fees  
11 in this process.

12 **MR. RICHARD LASHIER:** Right. And in  
13 the transporter community there's two variety of  
14 transporters. There's the independent transporters, I  
15 think as Tom alluded to, they're going to be a harder  
16 sell to bring into the fold because they have no  
17 alliance with the TSDFs that are the major customers  
18 on this. But many of the large TSDFs actually do  
19 their own transportation. In that area we will have  
20 less problem because they will have already brought  
21 their transporters, their fleets, into the fold.

22 But for the independent transporters it  
23 will be a different selling job. And we've always  
24 heard there's a certain amount of skepticism on the



1 part as independent transporters about their role in  
2 e-Manifest. And of course, they're adverse to paying  
3 fees too. Not surprisingly.

4 **MR. ROBERT KLOPP:** This is Rob again.  
5 Help me understand. Do the generators hire the  
6 transporters or do the receivers hire the  
7 transporters?

8 **MR. RICHARD LASHIER:** A little bit of  
9 both. I mean generators will have contacts. There  
10 are brokers, intermediaries, there are transporters  
11 that have the logistical contacts to make those  
12 arrangements with their generators and then deal with  
13 the receiving facilities. And there are some  
14 receiving facilities that are very integrated and can  
15 do the whole thing. And they will then funnel the  
16 transactions through their fleets and their allied  
17 transporters. I hope I've expressed that  
18 appropriately.

19 Moving on to slide 64. At the heart of  
20 the proposed fee rule was this idea of the  
21 differential fee methodology and the formula that  
22 supports it. And there was general agreement in the  
23 comments on the idea of a differential fee. And that  
24 is the idea that we assign a different fee for the

1 different types of manifests. With paper manifests,  
2 because they have the higher labor costs being the  
3 most expensive, and then the sliding scale of fees for  
4 the other submissions, the image files, the data  
5 files.

6 And of course, the fully electronic  
7 ended up being the least expensive of the submissions  
8 because they involve the least amount of human  
9 involvement at all. And there was general agreement  
10 with that outcome. There was actually a table in the  
11 proposed rule as well that discussed the possible  
12 range of fees under different assumptions about system  
13 development costs and different assumptions about how  
14 many manifests would be out there. And given that  
15 variability, people could look on that table and see  
16 what the proposed fees would likely be for the  
17 different types of manifests.

18 We only heard one comment from a  
19 company saying we think these fees are way too high  
20 and we're worried about it. I'm sure others might  
21 have had a concern about that, but we did receive one  
22 comment wondering about the level of the fees that  
23 were discussed in that table. But otherwise people  
24 were on board with the idea of the differential fees.

1 Now there was agreement with the proposed fee formula  
2 which is a great thing from the standpoint of going  
3 forward with the final rule.

4 There was also agreement with the  
5 general concept that the fee should become more  
6 aggressive over time if we don't reach our  
7 programmatic goals for electronic manifest usage. I  
8 mentioned yesterday there was this idea of if we don't  
9 see 75 percent electronic usage after four years then  
10 the formula pivots to a more aggressive fee that puts  
11 more of the paper processing burden on the paper  
12 manifest alone. And people generally agreed with that  
13 outcome, but there was some disagreement with the  
14 mechanics.

15 The receiving facilities particularly  
16 commented that they were concerned about us trying to  
17 codify in the final rule that 75 percent, four-year  
18 goal. We're taking that to the workgroup. We had a  
19 discussion about that just last week with the  
20 workgroup. But that was the comment we heard, some  
21 worry about the rule trying to codify that goal and  
22 the outcome. They actually wondered whether the  
23 advisory board would be more appropriate to weigh in  
24 on that.

1           Of course, our concern with that is  
2           that if we ended up deferring an issue like that to  
3           the advisory board, it could be several years before  
4           you make that recommendation. Then we have to go  
5           through the rulemaking process all over again and  
6           start with another proposed rule saying the advisory  
7           board recommends it's time to raise the fees by X  
8           amount. Then we have to go through proposing a final  
9           rule. It could be a very lengthy process to get to  
10          that more aggressive fee formula.

11           I know our system administrator -- we  
12          talked to him recently -- thinks it probably makes  
13          more sense, since the fees don't really increase that  
14          much with a more aggressive formula, it's probably  
15          better to have the expectations in the final rule so  
16          people understand that that will be the consequence in  
17          four years. That's the pro and cons of that issue.

18           **MR. ROBERT KLOPP:** This is Rob. A  
19          quick comment. My understanding is that you can  
20          ignore us at any time, so we can advise you and you  
21          can choose to ignore us. And that's okay.

22           But really probably more importantly,  
23          I'm trying to imagine how this all sort of works. If  
24          you raise the fees because people are sticking to the

1 paper process, but you raise the fees on the guys at  
2 the end of the process, how old does that stick really  
3 work to cause the generators and the transporters, who  
4 would begin the process in paper? How does that stick  
5 get down to them, to cause them to say, okay, I'm  
6 going to stop starting the process with paper, if the  
7 stick doesn't actually hit them and give them some  
8 pain?

9 **MR. RICHARD LASHIER:** That Robert is  
10 the very question we want you to consider when  
11 thinking about the hybrid and how it interacts with  
12 all these issues. Because basically, the question is  
13 going to be particularly if the generators basically  
14 are beginning in the paper world under the first  
15 interim phases of the hybrid how do we move beyond  
16 that, how do we incentivize the process. And there's  
17 going to be a discussion in one of the charge  
18 questions later on about how we do incentivize.

19 **MR. BARNES JOHNSON:** Yes. Yeah. That  
20 will be one of the questions we discuss.

21 **MR. RICHARD LASHIER:** So that's a good  
22 time to hold that discussion. I mean, this idea of  
23 the fee formula pivoting is only a modest change. We  
24 looked at it and I think for the electronic manifest

1 it's only pennies per manifest decrease in the cost of  
2 the electronic manifest. And maybe a two-dollar per  
3 manifest increase in the cost of paper if we go with  
4 that more aggressive formula.

5 It doesn't change the world greatly in  
6 terms of the fees that apply. But it just sends a  
7 signal that we do want to see progress towards  
8 electronic manifest implementation. And we'll then  
9 move some of those costs to the paper manifests.  
10 Still a full cost recovery. The same cost will be  
11 recovered, but we're just making paper manifest bear  
12 more of their own freight.

13 **MR. ROBERT KLOPP:** This is Rob. I  
14 understand that you want us to think about this. I  
15 guess I'm interested in where your thinking is on how  
16 that process is going to work at this point to sort of  
17 helped us start about it.

18 **MR. RICHARD LASHIER:** Is that an  
19 appropriate question for us to answer at this time,  
20 what our thinking is?

21 **MR. ROBERT KLOPP:** My question, Barnes,  
22 is they're asking us to weigh in on how we're going to  
23 incent the generators. And I'm just sort of  
24 interested in hearing where EPA is at in their

1 thinking on this topic. Just kind of set the stage  
2 for us to start thinking about it ourselves as an  
3 advisory board.

4 **MR. BARNES JOHNSON:** Yeah. The EPA  
5 folks will be here to weigh in when you guys take that  
6 question up.

7 **MR. RICHARD LASHIER:** I think that we  
8 should hold that discussion for the focus discussion  
9 on incentivizing the process. On the second main  
10 bullet on this slide the idea of the fee revision  
11 process. We did have a general agreement with the  
12 proposal to refresh the fee schedules every two years  
13 by running the latest numbers on budget costs and  
14 manifest numbers, and publishing that new schedule  
15 informally to users. I want to emphasize the word  
16 "informally." Because one of the major features of  
17 that proposed rule was we're saying we're not going to  
18 do a rule every two years. That would be  
19 administrative insanity if we had to do another rule  
20 every two years.

21 If that were the case, we wouldn't do  
22 the refresh every two years, we'd do it every 10 years  
23 like other programs do, okay. That's basically the  
24 bottom line. The administrative process of rulemaking

1 is so great and so burdensome that if we had to  
2 actually refresh by rulemaking every time, the  
3 frequency of refreshes would be much greater than it  
4 would be on the proposal. We'd be doing it every 10  
5 years probably instead of every two years, if that.  
6 The idea of doing it every two years we get the best  
7 of both worlds.

8 We get a more informal process that  
9 doesn't involve the cost and administrative burden  
10 which the fees would have to subsidize anyway, but  
11 also by allowing us to use the best numbers, the most  
12 recent numbers to make the fees updated. That's, I  
13 think, a win/win for everybody that we keep to this  
14 informal process.

15 We talked about the adjusters  
16 yesterday, the idea of the inflation adjuster based on  
17 the CPI-U. And there was actually general support in  
18 the comments for using an inflation adjuster, which  
19 operates between the year one and year two fees that  
20 we publish every two years.

21 But there were actually some pretty  
22 strong objections to one of the other adjusters. I  
23 don't think I mentioned it yesterday, but one of the  
24 other adjusters we had, besides the wrong estimates of



1 manifest numbers, which people generally agreed with,  
2 was the idea of if you find there's a large slug of  
3 manifests that weren't paid for because a facility, or  
4 several, did not pay their fees, we would track the  
5 revenue lost, because of uncollectable manifest, and  
6 plug it back into the formula the next cycle, and  
7 recover that lost revenue from the uncollectable  
8 manifests.

9 We heard a lot of comments from folks  
10 saying it's really not fair to be charging the honest,  
11 paying customers for the sins of their non-paying  
12 brethren. That was a comment we heard pretty loudly  
13 from the TSDFs. They did not think it was fair. I  
14 think some states also agree with that. Unfair to  
15 charge the good citizens for the sins of the ones that  
16 weren't paying. That's a comment we're taking under  
17 serious consideration.

18 **MR. ROBERT KLOPP:** Hey Rob and Rich,  
19 let me interject here. Fred was coaching me on FACA  
20 process, we're learning this. So now is really the  
21 best time, I think, for you to press on, Rich, with  
22 any clarifying questions that could help inform this  
23 question of how to incentivize participation upstream  
24 from the TSD.

1                   **MR. RICHARD LASHIER:** I think others on  
2 the team more probably able to answer that than I am.

3                   **MR. ROBERT KLOPP:** Yeah. Others from  
4 the team are welcome to engage in this as well. But I  
5 think now is the time to ask clarifying questions that  
6 will help inform the discussion that you're going to  
7 have among the advisory committee kind of later on.

8                   **DR. FRED JENKINS:** Just to chime in.  
9 Just to make sure everybody's clear. The first two  
10 days are for the advisory board to be informed by the  
11 Agency and by the public. This information is for  
12 their consideration before they start deliberating on  
13 the charge questions. Once they start deliberating on  
14 the charge questions, basically it's just them  
15 advising EPA. And EPA can only respond by asking  
16 clarifying questions of what they heard.

17                   **MR. RICHARD LASHIER:** Okay. I'll  
18 respond then to Rob.

19                   **DR. FRED JENKINS:** So now is the time  
20 to clarify any questions that they'll have.

21                   **MR. RICHARD LASHIER:** I'll respond to  
22 Rob as the rule writer, and I'll let others on the  
23 team chime in as they wish to help us with some of the  
24 other IT related types of incentives. From the

1 standpoint of the rule, the things that we've heard  
2 and discussed as ways to incentivize, in addition to  
3 the idea of the fee formula pivoting if we don't see a  
4 certain amount of electronic usage after a period of  
5 time, that's certainly one of the regulatory  
6 incentives; we've also had the idea perhaps  
7 interpreting in the rule whether these hybrid  
8 manifests count at all towards that 75 percent goal or  
9 whether they will be addressed solely as paper  
10 manifests. And therefore, the hybrid manifests begin  
11 as basically not counting towards the 75 percent goal.  
12 And therefore, that would be a way to see that we have  
13 to move beyond that to get to that 75 percent goal.  
14 The hybrid manifest won't cut it. That would be one  
15 way to interpret the hybrid as not constituting  
16 electronic manifest.

17 Another idea we've heard from the  
18 regulatory standpoint would be perhaps there is a need  
19 to phase out the hybrid as the normal solution after a  
20 certain number of years.

21 **MR. ROBERT KLOPP:** Let me sort of  
22 phrase my question more carefully. I guess what I'm  
23 interested in is, how you expect there to be an  
24 incentive for the generators who start the process.

1 How do you expect to lean on them if they just stick  
2 with the process that they're doing now? And I guess  
3 my second sort of related question is, what was the  
4 thinking that caused you to elect a path that charged  
5 only the receivers rather than maybe the other way  
6 around, charging the generators, which gives you a  
7 direct incentive to start the process properly.

8 **MR. RICHARD LASHIER:** When you say  
9 charge the generator you mean charging fees to the  
10 generators?

11 **MR. ROBERT KLOPP:** Yeah. If we're  
12 going to just charge one guy and pass the fees on  
13 using sort of a market-based system, which I think is  
14 a really interesting approach, my question is why not  
15 charge the fee to the person at the beginning, so that  
16 the process starts out right instead of trying to find  
17 some way to slide it back down where it becomes really  
18 indirect and is less likely to actually provide an  
19 incentive.

20 **MR. RICHARD LASHIER:** Responding to  
21 that issue first, Rob. Under the user fee guidance  
22 developed by both OMB and the General Accountability  
23 Office, there's a number of guidelines being issued on  
24 implementing user fee programs at the federal level.

1 It's very clear that EPA must, in determining how to  
2 design its user fee program, consider the  
3 administrative cost of implementing the fees and their  
4 collection. We looked at the issue of what it would  
5 take for us to set up a fee collections program with  
6 all the accounts.

7 I think we mentioned this briefly  
8 yesterday, but there is at least 160,000 generators.  
9 And as Joshua was indicating yesterday, that's  
10 probably a low number because of the numbers of state  
11 regulated generators out there that we've never  
12 accounted for. The idea of us setting up hundreds of  
13 thousands of primary payment accounts, and having to  
14 send out invoices to those generators at a regular  
15 interval, would be an enormous administrative burden  
16 that would then be passed on through the fees.

17 We think that that is a very  
18 significant negative for the idea of bringing the  
19 generators into the payment community. Also, because  
20 the TSDFs have such prominent regular contacts with  
21 their generator customers, the generators frequently  
22 are very occasional handlers of hazardous waste. If  
23 you were a generator that shipped two, three, four  
24 times a year, you're never going to have an incentive

1 to be the primary champion for e-Manifest. You're  
2 going to have to be brought into the fold by others  
3 who have more regular contacts with the system.

4 And the ones that have those regular  
5 contacts are the TSDFs and in some cases transporters.  
6 So there are so many prominent reasons why, starting  
7 with the generator community, while it makes sense  
8 from the standpoint of, sure the generators are by  
9 regulation in charge of the transaction, they're  
10 responsible for completing the manifest. What we  
11 know, in fact, from experience is that, while the  
12 generators are nominally responsible for completing  
13 the manifest and starting it, in fact in more cases  
14 than not the starting of the transaction is handled by  
15 the receiving facility, a broker or a transporter.

16 Those people are really driving the  
17 process more than the discussion of the generator role  
18 seems to really indicate.

19 **MR. STEPHEN DONNELLY:** Yeah. This is a  
20 Steve Donnelly. To add on to what Rich is saying,  
21 there are some very significant benefits to generators  
22 with the hybrid option. First off, less mail. Right  
23 now a lot of times the manifest is mailed to the  
24 generator three days before pick up and there's no

1 chance to modify this. With the hybrid manifest  
2 approach they'll be able to modify the manifest at  
3 pick up. Any changes, any additions, any subtractions  
4 to the hazardous waste shipment could be made onsite.

5 And they'll be able to share the  
6 manifest with other handlers. And this also will  
7 allow for third-party signature solutions should they  
8 consider outside of CROMERR solutions we're providing.  
9 This does provide generators significant positive  
10 reasons to adopt a hybrid e-Manifest without having to  
11 resort to any sort of punitive measures.

12 **MR. BARNES JOHNSON:** Any other comments  
13 from any of the EPA IT members about that before we  
14 move on? Any other questions?

15 **MR. THOMAS BAKER:** Yes. This is Tom  
16 Baker. Just trying to look at the hybrid manifest  
17 approach. And I think one of the issues that I'm not  
18 clear on is where the agency is at with respect to it  
19 being a paper manifest or an electronic manifest.  
20 Because the distinction is important whether we  
21 determine it to be e-Manifest or paper long-term.

22 Can you elaborate a bit on where you're  
23 at with the process of looking at the CROMERR issues

1 with respect to the hybrid manifest and the ability  
2 for that to in fact be an e-Manifest?

3 **MR. STEPHEN DONNELLY:** Yeah. I have to  
4 be careful with what we say so I'm going to defer to  
5 the expert, Scott Christian, on this and Rich can  
6 chime in as well. Yeah, CROMERR or the deployment of  
7 the hybrid is, I must be careful with my words so I  
8 don't know say anything I shouldn't. I defer to the  
9 in-house experts.

10 **MR. SCOTT CHRISTIAN:** With CROMERR, we  
11 have been working with our Office of Enforcement as we  
12 mentioned yesterday. We are currently looking into  
13 the standard CDX solution. Many of you have probably  
14 seen the standard CDX solution in that it meets a  
15 certain need. We're also engaging the team as well  
16 and mentioning we're going to go down. There have  
17 been no decisions made. But looking at these third-  
18 party signature solutions -- Fred, am I allowed to say  
19 a company's name that might do this or should I just -  
20 - you guys know what a third like -- good. Everybody  
21 is nodding. Thank you.

22 **MR. STEPHEN DONNELLY:** Like digital  
23 signature pads when you sign for something in the  
24 grocery store or you click on a button when someone



1 sends you a PDF or a contract at home, those type of  
2 products.

3 **MR. SCOTT CHRISTIAN:** Thank you, Steve.  
4 Can't endorse anybody by accidentally mentioning their  
5 names. And the team is receptive to at least  
6 listening to us and looking at this. There's a lot of  
7 similarities, especially in the pdf side, where you  
8 can capture the 20 points that are required for  
9 CROMERR. But we purposely wanted to get to test and  
10 get the data in. And as Steve's slide from yesterday,  
11 between February and December of this year, really  
12 sitting down and making sure we can get those past the  
13 CROMERR review board and an option for people to use.  
14 Does that answer your question, Tom?

15 **MR. THOMAS BAKER:** I think so. It's a  
16 work in progress?

17 **MR. SCOTT CHRISTIAN:** Yes. It's  
18 definitely a work in progress.

19 **MR. THOMAS BAKER:** You're still  
20 pursuing it, but no definitive decisions have been  
21 made yet?

22 **MR. SCOTT CHRISTIAN:** Right.

23 **MS. CYNTHIA WALCZAK:** This is Cindy.  
24 If I could ask a follow-up question. Right now

1 anybody can sign a manifest. And if they're not  
2 authorized to do so, if they're not qualified to do  
3 so, DOT or EPA can come after them after the fact.  
4 Why is the standard so much higher for e-Manifest than  
5 it is for the way we've been working for 30 years?

6 **MR. SCOTT CHRISTIAN:** Thank you for the  
7 question. This is Scott again. EPA has a regulation  
8 on itself called the Cross Media Electronic Reporting  
9 Rule, Title 40, Part 3. This rule lays out what EPA  
10 can consider when bringing in electronic data from an  
11 individual that is signed. And that regulation says  
12 what we can and cannot do.

13 **MR. RICHARD LASHIER:** Yeah. And I'll  
14 amplify on that a little bit too. What really is  
15 operating here is that in connection with the ink sign  
16 signatures on paper, there is so much comfort among  
17 the enforcement community with hundreds of years of  
18 experience with enforcing based on the forensic  
19 evidence of hand-written signatures. They really  
20 don't raise issues about paper signatures, ink  
21 signatures. They're just so normal and common they  
22 feel comfortable enforcing those.

23 Moving to the electronic sphere, the  
24 enforcement community has much more angst about their

1 ability to enforce reliably electronic signatures,  
2 particularly in the criminal realm where it requires  
3 proof beyond a reasonable doubt. As a result you end  
4 up with what appears to be a double standard on the  
5 electronic side. As federal policy has been  
6 developed, often with involvement of Department of  
7 Justice telling us what they can live with, is that  
8 they require people to have double authentication,  
9 two-factor authentication.

10 For a typical manifest signature, not  
11 only would a generator have to register in advance,  
12 they'd have to complete a signature agreement where  
13 they agree to certain undertakings about not  
14 compromising their signature, reporting incidents of  
15 compromise and the like and respecting the validity of  
16 the electronic signature. They have to submit that  
17 additional agreement as part of the deal. Then they  
18 have to be able to sign with a password if they use  
19 the password, which is the conventional CROMERR  
20 signature now.

21 Then there would be a second factor  
22 authentication where they would be asked to do a  
23 personal challenge question immediately after  
24 successfully entering a password. And then they have

1 to be prepared to respond to an email message where  
2 they would be sent a copy of their sign of the event  
3 and ask if they agree they made it or repudiate it.  
4 These are all existing CROMERR requirements that would  
5 apply to generators under the conventional CROMERR  
6 mode.

7           And we just have serious concerns,  
8 we've had these concerns, about how many generators --  
9 particularly the smaller ones that ship only a couple  
10 times a year -- how they would be willing to operate  
11 in the mode of having to go through a double gauntlet  
12 of a password they probably have lost between times  
13 the transporter shows up, then having to do a  
14 challenge question. You know how those can be tricky.  
15 And then having to be willing to even go online and  
16 repudiate the transaction when they get the autoban  
17 notification.

18           These are some of the challenges that  
19 CROMERR presents in the generator area, and why we've  
20 been so concerned about unleashing that mode on the  
21 generators in phase one. The idea of perhaps letting  
22 the generators continue to keep that paper copy in the  
23 field rather than putting them through all that  
24 process and all those challenges, it's better to keep

1 that. But until we find a way to deploy a more  
2 practical signature method that meets the enforcement  
3 community's needs while still being easy to use for  
4 the generator community, that's what we're really  
5 thinking about here for the hybrid; is the generator  
6 community may not be able to adapt to CROMERR on Day  
7 one.

8 **MS. CYNTHIA WALCZAK:** Can I ask,  
9 though, it seems to be driven by that fact that the  
10 generator is giving EPA electronic data, if you will.  
11 But it isn't really, it's the TSDF that's giving you  
12 the electronic data. Am I misunderstanding?

13 **MR. RICHARD LASHIER:** So we understand  
14 the idea that the TSDF is submitting the final data.  
15 But on the manifest, the generator certifies with the  
16 signature that they've prepared the shipment properly,  
17 that it's properly labeled and marked and all that.  
18 And the enforcement community views that as something  
19 that they might want to enforce if there's a willful  
20 violation. If something is improperly labeled or  
21 characterized, they view that as an event that they  
22 could enforce against. They want to see that same  
23 level of enforceable signature by the generator  
24 community.

1                   In order to get them that we had to  
2                   find a way to make the electronic signature both  
3                   forensically reliable and practical for the generator  
4                   community. Also, one that the enforcement community  
5                   will accept as defined by CROMERR.

6                   **MR. ROBERT KLOPP:** I'd like to follow  
7                   up.

8                   **MR. RICHARD LASHIER:** I know that's not  
9                   a satisfactory answer, but that's what it is right  
10                  now.

11                  **MS. CYNTHIA WALCZAK:** Right. Because  
12                  it's the company that's held accountable not the  
13                  individual.

14                  **MR. RICHARD LASHIER:** No. No. I  
15                  understand where you're coming from. The companies  
16                  feel accountable. But in the enforcement area, where  
17                  criminal enforcement is concerned, what the  
18                  enforcement community will tell you is they want to  
19                  hold the individuals responsible. They're the ones  
20                  making the willful violation. In their minds it is an  
21                  individual accountability issue, not the company,  
22                  which always presents a problem for us, translating  
23                  that to the generators.

1                   **MR. ROBERT KLOPP:** This is Rob. I  
2 think I'd like to take that in a little different  
3 direction though. If I interpreted what Cindy said  
4 properly, in the current paper-based system, people  
5 sign things. And after the fact you evaluate some  
6 portion of the signatures and you might decide some of  
7 those signatures are valid or invalid, but what's  
8 required is a signature. What you're saying, I think,  
9 is that you're putting a new requirement on top of the  
10 system, which is not just that there would be a  
11 signature, but there will be a validated signature.

12                   And I guess my question is, it's not  
13 that I think that a validated signature is a bad  
14 thing, my question is, is that part of the minimum  
15 viable product?

16                   Why wouldn't you just agree that you're  
17 going to collect a signature and it's works the same  
18 way the system works today? And sometime later maybe  
19 you go to a validated signature, right. Who is it  
20 that imposed a new requirement and new regulation that  
21 these signatures be valid that doesn't exist in the  
22 existing system?

23                   **MR. RICHARD LASHIER:** That is certainly  
24 an opening position one could make in the discussion

1 with the enforcement community about how we might  
2 practically implement signatures in the ideal world.  
3 But not being in the ideal world, the enforcement  
4 community tells us that they would not accept  
5 something that does not provide them with a valid  
6 signature. And the CROMERR rule, in their mind,  
7 represents what they view as being acceptable valid  
8 signatures. So again, it kind of results in this  
9 double standard where it's so easy to sign a document  
10 with a pen and people don't question it.

11 It's almost self-authenticating in the  
12 minds of the regulators and the enforcement community.  
13 But the moment you move to electronic, they require  
14 all this additional prior registration, sufficient  
15 agreements. And then there is the issue of well I want  
16 to validate that signature, almost on the fly, before  
17 I'll accept that it's bona fide. It makes the whole  
18 implementation much more challenging.

19 **MR. ROBERT KLOPP:** And I guess that's  
20 what I'm try to do, is figure out how to make it not  
21 so much more challenging. My question is, are you  
22 required by some law or statute, that if you go to an  
23 electronic signature, that you're required to go to  
24 this higher level of authentication? I mean, I see



1 this in other applications. I get an electronic  
2 signature on my credit card at the grocery store now.  
3 I write a signature in and it's just a signature.  
4 Right. What is the law that's forcing you to this  
5 higher standard and forcing you to a level of  
6 complexity that you might be able to avoid until later  
7 anyway?

8 **MR. RICHARD LASHIER:** Actually, there  
9 are some promising things that have been researched  
10 and explored. The law by the way is CROMERR. It's a  
11 regulation that applies to all EPA's reporting systems  
12 under 40 CFR. The manifest is one of them. So the  
13 law is CROMERR and that was a regulation developed in  
14 the early 2000s, I think it was 2005, by our  
15 Environmental Information Office with heavy  
16 participation by the enforcement community and DOJ.

17 Because they were the ones that were  
18 mostly concerned that we begin electronic reporting  
19 with an enforceable signature for purposes of the  
20 civil and criminal enforcement areas. It was very  
21 much a collaborative effort with the enforcement  
22 community pushing for what they viewed as being  
23 necessary and appropriate for a valid signature. But

1 then it ended up being a EPA regulation to which all  
2 our programs are subject.

3 But you're right, you can go into a  
4 store and sign on a pad, digital ink signature, and  
5 that suffices for a credit card. And the good news is  
6 it also might suffice for a manifest. Because we  
7 actually went to the trouble, a year or two ago, to go  
8 to the FBI with some of these digitized pads.

9 We found document examiners, forensic  
10 examiners, experts, who had actually done research on  
11 the forensic strength of some of those digitized pads  
12 and how they could be demonstrated through software to  
13 have the forensic needs to support the enforcement  
14 community. And in fact, the Department of Justice and  
15 FBI endorsed several of those methods as being  
16 adequate. The question has been how we can  
17 practically implement them with our manifest  
18 community.

19 How then to get buy-in to the purchase  
20 of the pads that pass muster. But there is in fact  
21 some movement to show that you can do a handwritten  
22 ink signature in a way that has the forensic strength  
23 that will satisfy the enforcement community. That  
24 they could go in there later on in an enforcement case

1 and prove that was a bona fide signature or not.  
2 Those are promising areas, but there are still some  
3 issues we have to confront and how to make that a  
4 unified solution.

5 **MR. BARNES JOHNSON:** Okay. Let me ask  
6 you, does the committee have anymore clarifying  
7 questions on this issue? Because I think it is  
8 important for us to keep moving but I don't want to  
9 cut off inquiry, but I do want to keep us mindful of  
10 the clock. Thanks. Go ahead, Josh.

11 **MR. JOSHUA BURMAN:** Joshua Burman.  
12 Just very quick clarification on what you just said,  
13 Mr. LaShier. My understanding would be that your  
14 current research is looking at alternative methods to  
15 meet CROMERR. Not that different sorts of digitized  
16 signatures would exempt the manifest from CROMERR. My  
17 understanding is for better or for worse, and that can  
18 be discussed at a different time in a different venue,  
19 the e-Manifest is subject to an existing enforceable  
20 regulation which is CROMERR. And again, for better or  
21 for worse, we are within that framework, correct?

22 **MR. RICHARD LASHIER:** That's how we see  
23 the picture now. If there was some way for us to make  
24 a plausible argument that somehow e-Manifest should be

1 exempt from CROMERR we would be interested in making  
2 it. But we've been trying for years to find this  
3 wiggle room and it haven't really appeared.

4 **MR. JUSTIN WILSON:** Justin Wilson.  
5 Little different topic for clarification. In this  
6 hybrid model a couple times now you guys have referred  
7 to the generator keeping a copy of paper, the original  
8 manifest, a generator copy of paper. And I'm still  
9 unclear as to how that differs in record retention  
10 regulations from today's standard of retaining for  
11 three years attached to the final copy. In this  
12 hybrid model the generator keeps a paper copy. For  
13 how long must they retain that? I think I'll just  
14 start there.

15 **MR. RICHARD LASHIER:** It doesn't change  
16 anything with respect to the generator copy. The  
17 generator copy is in fact the paper signed in copy  
18 described in the current regulations, required to be  
19 kept for three years to meet regulatory requirements.

20 **MR. JUSTIN WILSON:** Okay. The reason I  
21 ask that is now that they'll no longer be receiving a  
22 final signed copy from the TSDf to mate to that  
23 generator copy for record retention, it seems to me  
24 that three years would be no longer necessary once the

1 TSDF has uploaded that electronic data to the EPA. It  
2 seems at that point the paper copy could be destroyed  
3 at the generator site.

4 **MR. RICHARD LASHIER:** You're right.  
5 Under the current regulations, you can discard the  
6 initial generator copy when you receive the copy back  
7 from the TSDF indicating the final manifest. The  
8 generator, under the current regulation, is allowed to  
9 discard the initial copy. They don't have to keep  
10 both.

11 Obviously, they should be comparing the  
12 two to make sure there aren't any red flags. But once  
13 they've satisfied themselves that it comports with  
14 their other copy, they can discard the initial copy.  
15 I suppose that would be the same under the new  
16 regulations; when they get an electronic copy back  
17 from the TSDF they might be able to discard the  
18 previous signed copy.

19 It creates some issues because the  
20 initial copy is the one that has the generators ink  
21 signed signature. That might be the only copy like  
22 that. If they discard that later on then what you're  
23 left with is basically the final submission  
24 electronic, but you don't ever have in the system

1 anymore an inspectable copy of the ink signed  
2 signature. And some folks, I'm guessing, might object  
3 to that.

4 **MR. JUSTIN WILSON:** Okay. I'd just  
5 like to make the point that I think that definitely  
6 needs to be defined and clarified -- to say that this  
7 hybrid approach reduces burden on the generator and  
8 creates efficiencies -- I think that definitely needs  
9 to be --

10 **MR. RICHARD LASHIER:** I think that's a  
11 good point. We need to clarify whether they need to  
12 retain that ink signed copy for the three years rather  
13 than discarding it because of the fact that might be  
14 the sole copy that remains of the system of the ink  
15 signature by the generator. There would still be  
16 significant savings not having to have mailed copies.  
17 They're getting electronic copies of the final  
18 manifest. But they might need to hold on to that  
19 initial copy for the three years in order to make that  
20 appropriate.

21 **MR. BARNES JOHNSON:** Any other issues?

22 **MR. JUSTIN WILSON:** Just one last thing  
23 on that same note. Looking at it from a generator  
24 standpoint, an associate deemed responsible for record

1 retention of that manifest, that person, whoever is  
2 designated at a particular generator site, rather than  
3 waiting for a hard copy to come in the mail, the  
4 difference is they are now going to, at some  
5 frequency, need to go online to see that TSDf copy  
6 exists and was uploaded. I don't know that there's a  
7 soft labor savings really there. It's just kind of  
8 different, you know.

9 **MR. RICHARD LASHIER:** It is different,  
10 you're right. When you receive a copy in your email,  
11 what are you going to do with it? Are you actually  
12 going to download it and print it and put it in your  
13 file? It is going to be left there in your inbox?

14 It does impose some responsibility on  
15 folks to manage these documents when they come back to  
16 them electronically if they're not going to be in  
17 their system in their folders. If they're going to be  
18 receiving them electronically, they have some  
19 responsibility to manage those so they can be  
20 accessible.

21 **MR. JUSTIN WILSON:** So that is part of  
22 the hybrid program, is that the generator will receive  
23 an email copy of the TSDf electronic file?

1                   **MR. SCOTT CHRISTIAN:** Yes. As I  
2 mentioned yesterday, people can set up their  
3 notifications on what they want to see and how many  
4 emails they want to get. When they log into their  
5 site you saw that received and that's your electronic  
6 copy, as I mentioned yesterday. That's where you can  
7 drill down and see the electronic copy of the received  
8 manifest, if you want to log in. If not, we will have  
9 a notification scheme where you can say don't send me  
10 any emails or just send me email of stuff I signed.

11                   Probably the minimum we have to do  
12 because of CROMERR is what you signed; but the  
13 notification scheme would have, this is how I want to  
14 get my notifications.

15                   **MR. JUSTIN WILSON:** Thank you.

16                   **MR. BARNES JOHNSON:** Okay. Michael?

17                   **MR. MICHAEL HURLEY:** It's Mike. I have  
18 a couple questions on that. If it's a paper process,  
19 you know, they're using the 8700-22. They send it in.  
20 Instead of getting a copy back from the transport of  
21 the fully executed one, what their burden would then  
22 be is to go online and see the final version? And  
23 when they do that they won't see just the data file,



1 but they will also see the scanned file because it was  
2 a hybrid one?

3 **MR. SCOTT CHRISTIAN:** the hybrid  
4 wouldn't have a scanned with it. Thy hybrid would  
5 just be data and an electronic signature.

6 **MR. MICHAEL HURLEY:** Okay. And so they  
7 would go on there and they would validate that that  
8 was what they actually expected to see. But to do that  
9 they'd actually have to get into the system. That  
10 will actually sort of backdoor force them to get the  
11 credentials, be able to get into the system, and then  
12 track all of their things there. And that will propel  
13 them forward into less of a hybrid system perhaps.

14 **MR. SCOTT CHRISTIAN:** Right.

15 **MR. RICHARD LASHIER:** It's a  
16 recognition that they'll have to have access to the  
17 system to inspect their copies, if not to actually  
18 execute manifest. But they'd have an email address  
19 and somebody at the facility will need to have the  
20 credentials to access the system and view those  
21 manifests.

22 **MR. JOHN RIDGWAY:** John Ridgway. This  
23 intrigues me a little bit in terms of which becomes  
24 the official record. Imagine a manifest that

1 originates in paper from the generator is submitted in  
2 this hybrid plan and EPA's data center gets it and  
3 they enter it into the database. At that point does  
4 the paper copy become less official or the electronic  
5 record becomes the official record? Or are both of  
6 equal forensic value? For example, is there a  
7 transition at some point where that paper record is  
8 thrown away after they've done the data entry? Can  
9 you clarify how that might work?

10 **MR. SCOTT CHRISTIAN:** I just want to do  
11 one quick clarification before I pass it back to Rich.  
12 In this hybrid, this kind of phase one implementation,  
13 you know, partial paper world, the TSDf is taking that  
14 data and sending it to us. They're not sending it to  
15 the EPA paper processing center. EPA is not putting  
16 in the hybrids. The TSDs are putting in the hybrids.  
17 I just want to make sure that's clear to everybody.

18 **MR. RICHARD LASHIER:** Thank you. And  
19 to answer the second part of your question. As far as  
20 what the status of that paper is -- right now under  
21 the current regulations the generator copy is  
22 something that we ask the generator to hold on to so  
23 that when they actually receive the final manifest  
24 information submitted by the TSD they can do a check,

1 and if need be reconcile any questions that come up by  
2 the final count from the TSD and what they say they  
3 shipped. It has always had that role as being a check  
4 on the process so the generator can be informed of  
5 what the TSD then says they received. And then if  
6 there's a question they can raise it then, file a  
7 discrepancy or whatever if they have to.

8 But as far as the system is concerned,  
9 we are certainly most interested in retaining these  
10 final copies of the manifest as the copy of record.  
11 As far as what the status of that generator piece of  
12 paper is, it is the generator's copy of record. Their  
13 enforceable copy that they hold on site in case  
14 somebody comes and says I want to see the generator  
15 copy. I want to see that you certified that this was  
16 a proper shipment and that you claimed responsibility  
17 for it and it was properly prepared and all that.

18 It has that enforcement value to  
19 inspectors, being able to go back and identify as an  
20 inspectable record, the generator copy, because the  
21 generator will have signed it and certified they did  
22 the right thing.

23 But as far as the system is concerned,  
24 our interest is primarily in getting the best data

1 from the TSDf copy and letting the generator copies  
2 play their normal role, if it's a check there that  
3 people can use so they can be sure they're getting the  
4 best data, reconcile the data. But we're not going to  
5 be really interested in collecting generator copies.

6 For electronic manifests there will be  
7 a generator copy in the system because all submissions  
8 will be there. But on the paper manifests, we're only  
9 collecting the TSDf final copy. We're not collecting  
10 generator copies in the paper processing center at  
11 all.

12 There is somewhat of a diminishment of  
13 our weight placed on the generator copy in going to e-  
14 Manifest. That's kind of part and parcel of the  
15 system. We are not as interested at EPA in having all  
16 the generator data. We're more interested in the  
17 final data and getting the best data.

18 **MR. JOHN RIDGWAY:** For clarification,  
19 this is where the states have a pretty big interest.  
20 Because from an enforcement standpoint as the  
21 authorized enforcer, if there's a discrepancy between  
22 what's in the e-Manifest system verses what the  
23 generator started with, I think it's going be  
24 imperative -- not a recommendation here, but it would

1 be important that the generators understand, just that  
2 the manifest has been electronically entered into the  
3 system doesn't remove their responsibility to keep  
4 that original.

5 **MR. RICHARD LASHIER:** Right.

6 **MR. JOHN RIDGWAY:** I'm unclear about  
7 this. I'm not making recommendations but I'm not sure  
8 how this all works out yet.

9 **MR. JOSHUA BURMAN:** Joshua Berman. I  
10 need to follow-up with Mr. Ridgway. And I know we're  
11 treading close --

12 **MR. BARNES JOHNSON:** Yeah. Let's  
13 reserve conversation between committee members for our  
14 deliberations if we can.

15 **MR. JOSHUA BURMAN:** I need to ask a  
16 broader question. I think it addresses all of this.  
17 It's come out yesterday and today in several different  
18 ways that it appears -- and I want to make sure I'm  
19 clearly understanding, this that that is the intent.  
20 It appears that 30-some years ago, the original idea  
21 behind the manifest was based on the overall RCRA  
22 point of view, that the creator of a waste is forever  
23 responsible for anything to do with that waste cradle  
24 to grave. One of the basic philosophies of RCRA. And

1 as such, transport of that waste was considered to be  
2 the full responsibility of the generator well.

3 In the existing regulations, in both  
4 the state and federal levels, the generator is  
5 responsible for the manifest. In reality, as you've  
6 acknowledged and has come out in several questions,  
7 oftentimes, not all the time -- especially for some  
8 large sophisticated generators with multiple sites,  
9 they may prepare their own manifests. Or a broker  
10 that works for them may do that. But for the vast  
11 majority of generators in my experience, the receiving  
12 facility is the originator of the manifest. And they  
13 are bringing currently a paper form, which has been  
14 pre-filled, putting in front of somebody's face and  
15 saying here, sign this.

16 **MR. JOHN RIDGWAY:** Yep.

17 **MR. JOSHUA BURMAN:** My question is,  
18 overall, especially with this hybrid approach, if the  
19 receiving facility is responsible for taking not only  
20 data but verifying signatures and making a statement  
21 itself that EPA is appearing to say this will be the  
22 copy of record, that all the wet ink signatures on  
23 this paper, I, the receiving facility, have validated  
24 and you, EPA, will now accept these as the copy of

1 record; combined with the reality of today's world  
2 which is that very few generators prepare manifests.

3 And also with the e-Manifest ability  
4 for an offer which typically is a transporter acting  
5 on behalf of the generator to either wet ink or  
6 electronically sign a manifest such that it's quite  
7 likely in a real world situation that a generator will  
8 never see the manifest; is EPA's overall philosophy  
9 and stance still that the generator is ultimately and  
10 fully responsible for all steps of the program  
11 including translation of a paper manifest into the  
12 electronic copy of record?

13 And it's been very clear through all  
14 the proposed and final rules so far that the  
15 electronic will be the copy of record. The generator  
16 signed copy of a paper manifest already can be tossed  
17 as soon as there is a copy of record, which is the  
18 receiving facility's signed copy.

19 Or has EPA's philosophy ultimately  
20 moved? Because it very much appears through the rules  
21 that an overall view of EPA is that that liability and  
22 that responsibility is being transferred from the  
23 generators to the receiving facilities. Because they  
24 are being held responsible, again, particularly under

1 this hybrid model for certifying this copy of record.  
2 Is that the intent of EPA? And I know it's a big  
3 question, but I think it affects many things we've  
4 been talking about so far.

5 **MR. RICHARD LASHIER:** I'll try to  
6 answer the question, Joshua. And you're right that  
7 over time the program has moved away from its initial  
8 assumptions about generator involvement and control.  
9 Recognizing the reality that most generators actually  
10 want to rely upon their logistics providers to take  
11 care of the details of setting up a transaction,  
12 preparing the shipment, even preparing the manifest.  
13 You're right, they oftentimes will be presented with  
14 manifests already completed and they're asked to sign  
15 it in rote fashion.

16 We know that's how it operates because  
17 that's, in many cases, how the generators prefer to  
18 have it. They rely upon the expertise of the  
19 regulated community members to provide those services.  
20 Having said that, it is still our position that the  
21 generators remain liable for whatever happens.  
22 Because you know there's another side to the issue of  
23 Agency. Most of our issues are about service



1 providers taking on these responsibilities are handled  
2 as an agency or "on behalf of" sort of situation.

3 If you do that there's vicarious  
4 liability, but the generator is still the principle  
5 and they retain the ultimate liability for any  
6 missteps that occur during that agency. The generator  
7 remains the liable party. So in effect you gain two  
8 defendants. You gain the agent who has vicarious  
9 liability and you have the generator who remains the  
10 principle. But the generator still remains liable and  
11 we continue to maintain that is the case. The  
12 generator cannot shed their manifest and say it's all  
13 in the system now. The generator is still going to be  
14 liable for whatever occurs under their watch when they  
15 have these agency relationships.

16 **MR. MICHAEL HURLEY:** Sorry to keep  
17 dragging this on. I just have one last question.  
18 Under the paper or hybrid procedure, the manifest gets  
19 to the TSD, the TSD enters it. The generator looks  
20 and says, hey, this isn't what I expected to see or  
21 this isn't correct. And this is an interesting  
22 question. Is that actionable by EPA or your delegated  
23 states, or is that a third-party issue where it's a

1 consumer protection issue and it should go to the  
2 Better Business Bureau or AG?

3 Because that's not us. That's not  
4 under our authority. That was a deal between one  
5 generator and one TSD. They're private parties.  
6 They're doing a regulated activity, but if the issue  
7 is that's not what they expected to see we have no  
8 authority in there, do we?

9 **MR. RICHARD LASHIER:** It's almost a  
10 contractual issue between the generator and their  
11 service company as to whether something has been  
12 misrepresented. Now if in fact there is an exception  
13 report filed, a discrepancy report filed and there's  
14 an effort to reconcile that and we determine that in  
15 fact there was a significant discrepancy, then I would  
16 say you have a possible violation involved if it rises  
17 to the level of a significant discrepancy.

18 But if it's just a more minor issue in  
19 a sense, I think it has more to do with the  
20 contractual relationship between the two parties and  
21 what they want to do about it.

22 **MR. MICHAEL HURLEY:** Okay. If we got a  
23 complaint like that we would say well here are your

1 steps, you should have a scripts letter or what have  
2 you. And if you do not, then you should contact --

3 **MR. RICHARD LASHIER:** If you're a  
4 generator and you see the TSDf is taking liberties  
5 with your transaction and making alterations that you  
6 don't agree with, then I think you need to look at  
7 your relationships and determine maybe it's time to  
8 look for another service company. But that's not  
9 something we would get into.

10 **MR. MICHAEL HURLEY:** Okay.

11 **MR. BARNES JOHNSON:** Okay. Rich, I  
12 want you to go through the last three slides like in  
13 about five minutes if you can.

14 **MR. RICHARD LASHIER:** All right. I  
15 will do that.

16 **MR. BARNES JOHNSON:** Rob, last  
17 question.

18 **MR. ROBERT KLOPP:** I'm going to make it  
19 easy because I'm going to ask a question but not ask  
20 for the answer. Okay? And I'll ask for the answer  
21 maybe in our next meeting or something like that.

22 But if all of this discussion we've had  
23 now which is about the sort of oddness of the hybrid,  
24 which hybrids are always odd, that's what hybrid

1 means, and the role of paper versus electronic when  
2 both of those things exist in the process, it seems  
3 like when we move beyond the hybrid that this becomes  
4 ever more complicated.

5           Because you could have a generator be  
6 electronic that passes to a transporter that's not  
7 electronic, that passes to a transporter that is  
8 electronic, that passes to an end facility that's  
9 electronic. Or any possible combination of the  
10 process could go from electronic to not electronic or  
11 from not electronic to electronic. And all those use  
12 cases need to be thought through.

13           It could be a really complicated answer  
14 so I'm okay with taking the answer either later today  
15 or tomorrow or even in the next board meeting. But  
16 somehow I'd be interested in a discussion about when  
17 we get beyond the hybrid, how you think some of these  
18 things work.

19           **MR. BARNES JOHNSON:** Thanks, Rob.  
20 That's the next meeting, Day 2, e-Manifest.

21           **MR. RICHARD LASHIER:** I'll add just one  
22 clarification. For the purpose of the hybrid we  
23 proposed in the fee rule, it was limited only to the  
24 scenario of the generator not being able to apply

1 electrically. We didn't want to have it go paper,  
2 electronic, paper again, electronic. It's only if the  
3 generator transaction who are allowing them to get the  
4 paper. Others downstream need to be electronic to  
5 take advantage of that generator exception

6 We asked people to comment on that in  
7 developing that language. We don't want to go back  
8 and forth back and forth. But we'll have a narrow  
9 exception, just for the beginning, for the generators.  
10 There could be other scenarios that people might  
11 suggest that we should do it for others as well and we  
12 asked for that in the comment period. But we tried to  
13 limit it to the generator scenario only for the  
14 hybrid.

15 **MR. BARNES JOHNSON:** Okay. One of the  
16 things I will remind the committee. I want to draw a  
17 connection here. There's been a lot of energy around  
18 the hybrid approach. I think you need to realize this  
19 was the solution that the team came up with in light  
20 of the resources that we have been provided so that we  
21 could get to a fee-worthy system as soon as possible,  
22 given that we have not received the resources that we  
23 felt we needed to fully electrify the whole system. I  
24 don't think that particular point has been made.

1                   So anyway, Rich, take it away. And  
2 you'll probably be able to skip slide 66.

3                   **MR. RICHARD LASHIER:** Okay. Well that  
4 is a preview. All right. Slide 65 actually is  
5 important because it presents two of the issues that  
6 that we're presenting to you as charge questions.  
7 First one being the payment methods. We don't have to  
8 say a lot about it here today. But I can tell you  
9 that in response to our proposed payment methods, the  
10 industry and state commenters generally supported the  
11 idea of doing the monthly invoicing approach.

12                   The reimbursement approach where you  
13 use the system for a month, get a bill from EPA for  
14 your month worth of activities. Then there's a period  
15 of time, we proposed 30 days, when the payments are  
16 due.

17                   That received a lot of support from the  
18 industry and state commenters. There were only a very  
19 few comments that actually spoke to or supported the  
20 idea of the advanced payment option. We said in a  
21 previous outreach with the community we heard that  
22 they would be interested in looking at it if in fact  
23 they thought there were some incentives to using it.

1                   But in the actual written comments we  
2                   only got a very small number of comments saying maybe  
3                   have both options. The advanced payment option looks  
4                   like it makes sense for administrative burden for EPA.  
5                   But that's where the comments generally came in.

6                   EPA still wants to have some charge  
7                   question discussion of this with the advisory board.  
8                   Because as you can see, we also received a comment  
9                   from the TSDFs expressing concern about being required  
10                  to pay their invoices within 30 days.

11                  And as you know, we here at EPA are  
12                  very concerned about setting up the system in the  
13                  first year, being able to have a stable revenue stream  
14                  initially. Particularly, given the track record of  
15                  having very frugal appropriations to build and operate  
16                  the system. It seems to be a concern that if it takes  
17                  45, 60 days or longer for the payments to come in  
18                  after receiving an invoice, we're going to be  
19                  basically holding the bag for a more urgent period of  
20                  concern.

21                  Maybe there's even more urgency to the  
22                  idea of exploring the advanced payment approach if it  
23                  can be tee'd up in a way that it appears to be

1 practical and it has incentives. That's why I tee'd  
2 that up in that way.

3 We need to keep in mind, is there some  
4 way that this approach can be presented in a way that  
5 folks will find it agreeable and we can see some  
6 incentives to it. On the sanctions side, not too much  
7 to say here. We had general support for the financial  
8 sanctions that are already in the federal claims  
9 collection statutes.

10 There was some support for the idea of  
11 the civil enforcement remedy, particularly for  
12 egregious cases of nonpayment. That sort of cries out  
13 for some clarification in the final rule of what we  
14 think those egregious cases might be. If that's the  
15 standard.

16 And we saw a little support for the  
17 idea of the publicity sanction or the delinquent  
18 payers list. Most folks felt that maybe it might have  
19 some incentive. It probably would not be terribly  
20 practical and probably would not accomplish too much.  
21 That's just informational.

22 The third bullet here is one that's  
23 also being tee'd up for the board as a charge question  
24 about the corrections process. We saw general



1 agreement from the industry commenters that a  
2 receiving facility should be responsible for the  
3 submission of corrections to existing data records.  
4 But there were a significant number of minority  
5 comments from others, some industry comments as well  
6 as some state comments, saying why is it that states  
7 and generators or even transporters should not be able  
8 to go into the system if needed to make a change?

9           There was some disagreement about the  
10 TSDF as having that exclusive role or responsibility  
11 for being the ones responsible for making changes in  
12 the system. There was agreement that it made sense to  
13 try to limit the corrections process to an electronic  
14 process. But there was concern by some, particularly  
15 in relation to those states receiving facilities that  
16 we don't know too much about, whether they would be  
17 able to participate in this process electronically if  
18 they had to make a change. Maybe there should be some  
19 exceptions for the outlier that is not able to correct  
20 electronically.

21           Then we saw industry objections to the  
22 proposed 90-day correction window. This is one that's  
23 very important to point out. We saw very strong and  
24 regular objections from industry and state commenters

1 to the idea of there being a 90-day window when  
2 corrections can be submitted to existing records. We  
3 actually received a lot of comments pointing out some  
4 fairly common scenarios under which corrections can't  
5 occur within 90 days. Facilities oftentimes won't  
6 actually find the error until it's time to submit  
7 their binary report or a state annual report, perhaps  
8 a year later.

9 We heard people say that maybe it's an  
10 internal audit by the facility that first turns up the  
11 error and it's going to be well after 90 days. But  
12 there needs to be a way that changes can occur  
13 whenever they're discovered. We heard a very strong  
14 comment that the 90-day correction window would impose  
15 hardship and was objectionable.

16 And then we heard more typical comments  
17 that whatever one must say about the corrections  
18 process, as we described it, with it being initiated  
19 by the TSDs or by a notice to the TSD, there's a need  
20 for a change with certain timelines sort of all aimed  
21 at getting it done by Day 90. Some folks said we need  
22 to have more clarification in the final rule about how  
23 the participation will occur by interested parties,  
24 what notices they will receive and how they'll receive

1       them and the like. People asked us to really clarify  
2       a little better how this overall process will work in  
3       terms of who initiates, how they respond, how people  
4       get notified, what the windows are for this.

5               And of course, our concern is that some  
6       of the comments said, oh, these people need to be  
7       giving their notices by Day 60 if we're going to have  
8       it done by Day 90. Then we have the overarching  
9       comment that it makes no sense to have a 90-day  
10       window. If there's not a 90-day window, should there  
11       be a window at all? And how then should the  
12       corrections process be defined to feed into whatever  
13       is the desired window for completing corrections? Or  
14       is there no window at all? That's why we are  
15       interested in hearing the board's advice on how to  
16       structure a corrections process; so that it gets us to  
17       good quality data, it provides the participation  
18       needed by all interested parties, the receiving  
19       facilities, as well as the interested states and other  
20       handlers on the manifest. How they can be brought  
21       into the process.

22               I won't ask you to provide that  
23       feedback now. But we're asking for clarification  
24       through the charge question as to how we might

1 structure the corrections process so that everybody  
2 comes away with a win/win.

3 **MR. ROBERT KLOPP:** Rich, this is Rob.  
4 Can you help me understand what the definition of a  
5 typical correction is? Because I can imagine trivial  
6 ones like, I changed the date because I didn't record  
7 the date properly. To serious ones like, I changed  
8 the type of hazardous waste that I'm shipping or I  
9 changed the volume of the hazardous waste I'm  
10 shipping. What does it mean to provide a correction  
11 120 days after something gets checked in?

12 **MR. RICHARD LASHIER:** Well, I believe  
13 Robert -- and there are probably folks in the room  
14 that have far more experience with these kinds of  
15 corrections than I have as a filter of other people's  
16 comments. But what we've heard over the years is that  
17 often the more significant comments have to do with  
18 the EP ID numbers being incorrect for sites. That  
19 either there's a typo that makes the number wrong or  
20 perhaps the facility is no longer a business, that ID  
21 number has been transferred or changed.

22 Or there are many facilities that don't  
23 even have ID numbers that'll be coming into the  
24 system. There needs to be a way to give them some

1 kind of unique identification. But we hear that ID  
2 numbers are a frequent area of errors. There can be  
3 an error in the quantity of waste received versus what  
4 was indicated as being shipped. Those are perhaps  
5 more significant and need to be corrected because we  
6 want the best data; particularly if we're going to use  
7 the e-Manifest down the road for preparing the binary  
8 report. We want the data quality to be part parcel of  
9 the corrections of process so that we can rely upon  
10 these correction submissions, so that we would then  
11 use later to build the binary report.

12 Those issues about types and quantities  
13 of waste are significant. I don't think they occur as  
14 often as the ID numbers, but I would defer to others  
15 who actually see these documents more often than I do  
16 to weigh in on what the frequency of the data problems  
17 might be.

18 **MR. JUSTIN WILSON:** Justin Wilson. Am  
19 I understanding correctly that currently the  
20 definition of correction could be anything entered  
21 into that manifest?

22 **MR. RICHARD LASHIER:** Right.

23 **MR. JUSTIN WILSON:** Thank you.

1                   **MR. RICHARD LASHIER:** It doesn't have  
2 to be a significant discrepancy to give rise to a  
3 correction. It can be an error in the data less  
4 significant than a significant discrepancy if you know  
5 what that term means in the regulations.

6                   **MR. JUSTIN WILSON:** Yeah. From your  
7 point of being able to perform biannual reporting down  
8 the road, and for other reasons, I think anything on  
9 there may need correction. I'm glad to hear it's  
10 open.

11                   **MR. BARNES JOHNSON:** Okay. Is there  
12 anything on slide 67 you want talk about, Rich?

13                   **MR. RICHARD LASHIER:** Well, that's been  
14 a topic that's been brought up a lot already.

15                   **MR. BARNES JOHNSON:** Sixty-six is  
16 flipped. We passed that.

17                   **MR. RICHARD LASHIER:** Oh, 67? It's not  
18 that critical. We heard a good deal of support for  
19 the transporter changes proposal. General support for  
20 that. There wasn't really a great amount of bickering  
21 about the need for there to be a change that makes the  
22 actual regulation comport more with what is understood  
23 to already be an existing practice that had been going

1 on for some time. We didn't hear anybody really  
2 object that much to it.

3 **MR. BARNES JOHNSON:** Okay. Slide 70,  
4 please? Steve, one minute?

5 **MR. STEPHEN DONNELLY:** Absolutely. So  
6 e-Manifest outreach. And Fred will work on this  
7 following the completion of this advisory board. We  
8 are charged with generating awareness, enthusiasm and  
9 participation with e-Manifest.

10 We are looking for substantive feedback  
11 with our system and our rule. We are also selfishly  
12 trying to avoid the log jam of getting users on board  
13 prior to system launch in 2018. And we are also  
14 looking to leverage your expertise to find some  
15 efficiencies. We have a lot of people interested in  
16 e-Manifest, especially in the system testing side.

17 And we want to get people involved, but  
18 we are not the largest development team in the world.  
19 We would like to find ways to get the most value from  
20 our user community as possible without pulling  
21 resources off the actual building of the system. We  
22 want to -- I used the term thread the needle yesterday  
23 -- I'll use it again. We want to find that sweet spot  
24 between engaging with our users and not going down the

1 rabbit hole of just discussing, discussing,  
2 discussing, discussing. And we are accomplishing that  
3 currently.

4 We engaged in webinars, we're having  
5 our advisory board meeting and we do work with users  
6 and testers on an ad hoc basis. But we are looking to  
7 refine that approach so we can emulate what we're  
8 doing with the e-Manifest design team. Which we stood  
9 up back in December, maybe November, where we have  
10 experts from states in EPA regions having some serious  
11 conversation about our API services, about the unique  
12 nature of the manifest workflow, how we should be  
13 deploying e-Manifest.

14 What are some of the best practices  
15 they have realized in their own experience? And we  
16 would like to break that out into our other manifest  
17 users. Particularly TSDs, generators, states --  
18 government and tribal, brokers and third parties, and  
19 eventually trainers as well. These are people we've  
20 identified that would be using e-Manifest. That's  
21 about it.

22 **MR. BARNES JOHNSON:** All right.  
23 Thanks, Steve. We will be taking a 12 minute break.  
24 You need 15?



1                   **MS. CYNTHIA WALCZAK:** Will there be  
2 opportunities for further questions to EPA after the  
3 break?

4                   **MR. BARNES JOHNSON:** Let's get through  
5 the public comment period and then we'll maybe try to  
6 --pardon me? Okay. What we'll do, we'll take the  
7 break and before the public comment period we'll have  
8 one last brief moment for clarifying questions for  
9 EPA. Anybody on the team. And then we'll get to  
10 public comment.

11                   **MS. CYNTHIA WALCZAK:** Okay. And if  
12 it's too brief for me to have the opportunity to ask  
13 all my questions can I submit those in writing or  
14 something? How do those get addressed?

15                   **MR. BARNES JOHNSON:** Fred, you know the  
16 rules here.

17                   **DR. FRED JENKINS:** Yeah. You're going  
18 to have to be clarified fully before we go on to the  
19 public comment period. We'll give you the opportunity  
20 to ask your questions before the public comment  
21 period. The idea is to make sure that the board is  
22 fully clear and prepared to address the charge  
23 questions. That's the intent of the public comment  
24 period as well, for the public to provide their input.

1 The agencies provided their input, now the public will  
2 provide their input.

3 You all will also have the opportunity  
4 to ask clarifications to each of the public  
5 commenters. And then once that ends then you proceed  
6 with advising the agency on each of the charge  
7 questions.

8 **MR. BARNES JOHNSON:** All right.

9 **DR. FRED JENKINS:** With that said,  
10 while we're on break is there a Billy Puk in the room?  
11 If you could come see me please.

12 **MR. BARNES JOHNSON:** Okay. We're going  
13 to start back at five minutes 'til.

14 (Brief recess.)

15 **MR. BARNES JOHNSON:** Okay. I'd like to  
16 ask everybody to assemble for the public comment  
17 period.

18 Yeah, Rich, I think the public  
19 commenters will be there. Oh, I'm sorry. We're going  
20 to wrap up questions from the Board first, in just a  
21 few minutes.

22 **MS. CYNTHIA WALCZAK:** Thank you. I had  
23 a question about the physical form of that manifest  
24 under the hybrid system. All along I had understood

1 that DOT requires a copy in the truck. I just  
2 recently learned that now the generator is expected to  
3 have an inked copy, which means I can't just take a  
4 photograph of what I sent with the driver, but rather  
5 I've got two copies that should be identical when the  
6 transporter leaves. What's the physical form of that?  
7 Are we talking carbon copies again or otherwise?

8 **MR. RICHARD LASHIER:** I mean, you're  
9 right that the generator copy is going to be the ink  
10 signed copy that the generator and the transport have  
11 signed. And there is the requirement there be a copy  
12 on the truck for DOT purposes. I imagine that that  
13 would be fulfilled as well by have a copy of that  
14 generator signed copy also be provided for the  
15 transporter to carry. It's kind of a close call  
16 because normally we think that people are going to  
17 provide that DOT required copy by just making another  
18 copy of the manifest.

19 But technically, DOT doesn't really  
20 require an ink-signed document. The typed name would  
21 suffice for DOT. I don't want to induce even more  
22 confusion into whether or not the copy without the  
23 generators ink signed signature would suffice because

1 there's a question of what's ease of use here. I'm not  
2 sure.

3 **MS. CYNTHIA WALKCZAK:** Okay. So  
4 basically, EPA won't be prescribing carbon copy forms  
5 like the present situation, except there's two copies  
6 instead of six. That's not your vision?

7 **MR. RICHARD LASHIER:** There's nothing  
8 currently pending where we plan to actually come out  
9 with a new hybrid manifest form with only two or three  
10 copies instead of the six-copy form. I mean, it's  
11 important to keep in mind, too, that while we talk  
12 about this hybrid on a proposal as being just limited  
13 to the generator, the comments that we see from the  
14 TSDF community, and I think stuff folks are responding  
15 to now, what they call the interim approach summarized  
16 on the comment slide, would actually still help. Most  
17 folks using the six-paper copy form to sign in ink,  
18 and then only at the TSDF would there be an upload of  
19 data.

20 I think if we actually were to go with  
21 the interim approach recommended in the TSDF comments,  
22 we would still be using the six-copy form and signing  
23 those in ink. And only at the backend and the back  
24 office would there be the upload.

1 I think it's an important distinction  
2 to point out too, we didn't get over it in that slide  
3 I had on the hybrid, what we proposed in the fee rule  
4 on the hybrid was just the generator copy being  
5 retained by the generator as an ink-signed copy and  
6 trying to get the rest of the process electronic as  
7 soon as possible.

8 But in the comments we see from the  
9 TSDFs, as the interim approach that they recommend,  
10 they would still have everybody signing the manifest  
11 in ink. And then there would be an additional CROMERR  
12 signature on the upload at the back office. That's an  
13 important distinction between what we proposed and  
14 what we're being advised to think about in our final  
15 rule in response to the industry comments.

16 I think we should probably point that  
17 out. We'll need to -- probably when we think about  
18 commenting on the hybrid, commenting on our proposed  
19 approach, whether they're commenting on the industry  
20 approach of actually having more paper, but having a  
21 back office upload of the data.

22 **MS. CYNTHIA WALCZAK:** My second  
23 question concerned the hybrid approach as well. Where  
24 I think I heard it said that the truck driver

1 basically gets the TSDf, gives them a copy of the  
2 paper manifests and then the TSDf converts that to an  
3 electronic. And then they can just toss what the  
4 truck driver had been carrying with him. And then the  
5 generator can go into the system and see the  
6 electronic manifest and say great they got it,  
7 everything's right and they can toss their copy.

8 My understanding of DOT regulations  
9 would preclude that scenario. And I'm wondering if  
10 EPA has DOT buy-in or has had a conversation with DOT  
11 in that regard?

12 **MR. RICHARD LASHIER:** You're suggesting  
13 the DOT would preclude it based on what?

14 **MS. CYNTHIA WALCZAK:** Their record  
15 retention requirements for hazmat.

16 **MR. RICHARD LASHIER:** For hazmat, I  
17 think, there's a one year requirement the transporter  
18 retain a copy?

19 **MS. CYNTHIA WALCZAK:** I think so.  
20 Yeah.

21 **MR. RICHARD LASHIER:** Okay. We'll have  
22 to look into that and make sure we are comporting with  
23 DOT on the one year requirement. But then DOT doesn't  
24 necessarily require it to be ink signed, it just have

1 to have a typed name on it, right? Understand that  
2 too? Okay.

3 **MS. CYNTHIA WALCZAK:** The goal of 75  
4 percent being in electronic format within four years,  
5 it seems inconsistent with the fact that EPA doesn't  
6 really have a vision yet for how to be fully  
7 electronic. Your vision is quite well flushed out in  
8 terms a hybrid, but in terms of fully electronic I  
9 don't know that you even know when you're going to be  
10 there. So the goal imposed on the user community  
11 seems inconsistent with the fact that I have not heard  
12 EPA's goal for having a fully electronic system  
13 available.

14 Am I accurate in that or did I miss  
15 something?

16 **MR. RICHARD LASHIER:** Barnes?

17 **MR. BARNES JOHNSON:** No. I was just  
18 going to make sure Cynthia was asking a clarifying  
19 question as opposed to making a comment.

20 **MR. RICHARD LASHIER:** Your comment is  
21 well taken. I think that at the time we were  
22 generating most the discussion for the fee rule and  
23 our economic assessments used the 75 percent  
24 assumption as being a reasonable benchmark for an over

1 several years' implementation of the e-Manifest in  
2 four years. Being there at that point. I think  
3 what's happened in the more recent months, the  
4 discussion of the hybrid as an interim approach has  
5 gained more traction, and has raised the specter that  
6 perhaps there might be more reliance on continuing  
7 paper perhaps longer than we supposed when we were  
8 doing the major work of flushing out the fee rule.

9 That's something for our folks to  
10 consider. What is the implications of the hybrid on  
11 the attainment of that 75 percent goal?

12 **MS. CYNTHIA WALCZAK:** One last  
13 question. If the generator disputes error correction  
14 initiated by the TSDF, has EPA considered who controls  
15 that process at that point or how the dispute gets  
16 resolved?

17 **MR. RICHARD LASHIER:** In the proposed  
18 rule, we determined that the TSDF has the last word.  
19 They can consider the comments raised by a generator  
20 or other interested party. But in the final analysis,  
21 for the proposed rule, by day 90 the TSDF has the last  
22 word on what the final representation of the data  
23 should be. That's something we discussed in the  
24 preamble. preamble.



1                   **MS. CYNTHIA WALCZAK:** One final  
2 question. This is for you, Fred. I have concerns  
3 with regards to the extent to which DOT has been  
4 involved in the process. And that's not one of our  
5 charge questions. Can we, nonetheless, make a  
6 recommendation in that regard? Or are we limited to  
7 the charge questions?

8                   **DR. FRED JENKINS:** Thank you for your  
9 question. I'll be happy answer it. The board is only  
10 charged with answering the questions that were  
11 submitted to you for this meeting. You can make a  
12 comment when you're providing your advice during your  
13 deliberations of the charge. Suggesting a question  
14 for future meetings. But you all should solely be  
15 focused on the charge questions that you were provided  
16 for this meeting.

17                   **MS. CYNTHIA WALCZAK:** Thank you, I'm  
18 done. Thank you for the time.

19                   **MR. BARNES JOHNSON:** Okay. Anymore?  
20 Going once, twice, three times? Great. Okay.  
21 Thanks, Rich. Thanks, Steve. We are going to move to  
22 the public comments process.

23                   And hopefully, everybody knows this but  
24 we have about 600 people that are listening through

1 web-streaming. That's why we're trying to manage the  
2 microphones because that's the mechanism by which  
3 folks hear what we're saying. But I did want our  
4 public commenters to be aware of that. Our first  
5 public commenter is Catherine McCord. There she is.  
6 Welcome, Catherine.

7 Catherine is the VP of Environmental  
8 Health and Safety at the Heritage-Crystal Clean  
9 company.

10 **MS. CATHERINE MCCORD:** And just for  
11 clarification, DOT record retention obligations for  
12 hazardous materials shipment is three years from the  
13 initiation of the shipment from the original offer.  
14 Okay; so three years. I'd like to take a second. And  
15 I know we only five minutes, but I want to take a  
16 moment to explain sort of what my company does. Our  
17 primary role is the interface with customers. We have  
18 more than 100,000 customers in the U.S. and we have 85  
19 branches that are 10-day transfer facilities that go  
20 out and pick up containerized waste every day. We  
21 also have at some of those same locations bulk trucks  
22 that are picking up used oil or oily water from oil  
23 water separators.

1                   We prepare all the shipping papers for  
2 our customers. But what comes behind that is really  
3 all the preparation as far as approving waste streams.  
4 Before we pick up a container from somebody, we know  
5 exactly where that container is going to go. And that  
6 information is embedded in the approval of waste  
7 stream. It's not just generators, it's the  
8 generator's waste streams that affect the routing. We  
9 route some of these waste streams as some of the folks  
10 in the room here.

11                   The only waste streams that we manage  
12 internally is used oil at our oil refinery in  
13 Indianapolis and also some non-haz mineral spirits,  
14 which we put through a distillation column. Otherwise  
15 all the waste that we pick up are going to third  
16 parties.

17                   Some of the questions that have been  
18 brought up, I'd like to just give little tidbits and  
19 then you can ask questions. But if there's a problem  
20 with a customer's load we are in the middle of making  
21 those corrections. It might be a container  
22 discrepancy. It might be that one container got  
23 repacked because it was leaking.

1           And those corrections can happen all  
2 the way up until the time the loads get to the final  
3 TSDF or final processing facility. We do pick up a  
4 lot of waste that are not RCRA hazardous waste and  
5 they go to non-TSD, mostly non-land applied  
6 facilities. Mostly waste energy plants.

7           For our system we have these facilities  
8 interfacing with customers that are 10-day transfer  
9 facilities with respect to hazardous waste in them.  
10 And then all of that material goes directly to one of  
11 our four distribution hubs which are also 10-day  
12 transfer facilities.

13           We're not processing the material  
14 there; we're not closing out RCRA hazardous waste  
15 manifests for SPGs and LPGs there. We're taking those  
16 documents and pulling them along, pushing them in the  
17 right direction. The distribution hubs are the point  
18 where loads from the branches are unpacked. It's like  
19 a moving van, tubes of light bulbs, drums of various  
20 things. And the routing then proceeds from that  
21 distribution hub to the final TSDF or the final  
22 locations.

23           For any of the wastes that are not RCRA  
24 hazardous wastes we're running on bills of lading

1       except for the states that have additional rules.  
2       Those rules of the road come through me and through  
3       our IT department. They program that into what papers  
4       are printed for each of these transactions. A couple  
5       of things I'm a little concerned about is that, while  
6       we are listed as transporter one on all the shipments  
7       from our customers, transporter two may not be us.

8                 It might be an over the road hauler,  
9       one of the people we selected and have contracts with  
10      that are dropping off a trailer supplies at the  
11      branches and picking up the trailer waste and bringing  
12      it back to the hub. Transporter two could actually be  
13      a second person.

14                If it's a RCRA hazardous waste that's  
15      being moved, transported two signs, right? If it  
16      happens to be our over-the-road driver we're still  
17      transporter one, we don't re-sign.

18                One of the considerations I'd like the  
19      group think about is we know that that the e-Manifest  
20      system is not going to be tracking any of the 10-day a  
21      waste shipments stoppages, right. For most of the  
22      companies now in the waste game, we've gone beyond the  
23      cradle to grave manifest. We've gone to systems that  
24      are actually managing and tracking individual

1 containers. And the reason for that is, you know,  
2 again, up front by looking at special numbers on these  
3 drum labels that we provide our customers, we know  
4 where that container is going to go.

5 For waste that are over regulated more  
6 than the federal hazardous waste rules, state  
7 regulated waste or manifested waste, from CSQGs, which  
8 will soon become VSQGs under the new generator rule,  
9 we close out those documents, the manifest because we  
10 view that document as being ruling only in the  
11 origination state. When that material moves out of  
12 state we'll transfer that manifest of state regulated  
13 waste to bills of lading.

14 A couple things I guess I'm a little  
15 concerned about is, again, I guess you view us as a  
16 transporter under the regulations. But we will be the  
17 ones that, again, hopefully loading up these customers  
18 into the system. I understand from our discussions  
19 earlier that people in the business will have the  
20 opportunity to load customers in.

21 Something to think about is, though,  
22 that a particular customer, generator, could actually  
23 serviced by multiple third parties, right. Who does  
24 that record belong to? I think it's going to be a

1 challenge. For us, our niche is picking up smaller  
2 quantities of waste from often, you know, often  
3 businesses that don't have room to keep five drums  
4 around. They want those out the door as soon as they  
5 generate that waste.

6 I still see some, maybe less than fully  
7 informed thoughts about management of this information  
8 about customer records. So today we'll even help the  
9 customer fill out the paperwork to get an EPA ID  
10 number. We don't sign anything like that but we help  
11 the -- especially informed businesses that don't have  
12 environmental managers, help them get things in order.

13 We approve those waste streams. If a  
14 waste is found to be non-conforming once it hits the  
15 TSDF, we will contact the customer. We don't view  
16 that as being the TSDFs responsibility. We will  
17 decide if that non-conformance is a one-time. Maybe  
18 it's more liquidity then it should be. It may not  
19 affect the RCRA status, but it may affect pricing.  
20 There's many things that might drive a correction in  
21 that shipment.

22 Some of those corrections could be  
23 permanent because the waste stream has changed and the  
24 customer didn't inform us. And we'll make an approval

1 change in the actual profile for those waste streams.  
2 Those profiles are what drives the shipping  
3 descriptions, which are on the manifest.

4 I guess really it wasn't until I got  
5 into the waste business that I really respected what  
6 DOT meant with respect to these shipments. We're  
7 focusing on the EPA's saying on this piece of paper,  
8 but really what matters is that the shipping  
9 description is proper, that it has the right drum  
10 labels on it and that the loads are properly  
11 placarded.

12 **MR. BARNES JOHNSON:** Catherine? We  
13 have five minutes for public comments.

14 **MS. CATHERINE MCCORD:** Did I hit it?

15 **MR. BARNES JOHNSON:** Yeah. The clock  
16 is right there. You went two minutes over.

17 **MS. CATHERINE MCCORD:** Okay. Okay.

18 **MR. BARNES JOHNSON:** I'll let you wrap.  
19 Give you just a moment here to wrap on any final  
20 points.

21 **MS. CATHERINE MCCORD:** I do want to  
22 make sure that we have incentives to make corrections  
23 as soon as they're known. From a DOT perspective, the  
24 offers of the shipments, the transport of the



1 shipments, need to make those corrections as soon as  
2 they have knowledge of them. If there's a wrong drum  
3 count, if it should be liquid versus solid those  
4 corrections should be made. I would hate to have a  
5 financial disincentive that someone just doesn't want  
6 to get dinged that one more fee. That might mean a  
7 little bit different approach with respect to how  
8 those events, that manifest is billed. I do also want  
9 offer something with respect to CROMERR.

10 I went through and sort of re-read some  
11 history of CROMERR last night because I always viewed  
12 CROMERR as something that involves reporting from  
13 companies. There's some information like a daily  
14 monitoring report, like form R under EPRA that had to  
15 be certified by a certain responsible party with  
16 respect to those reports being submitted to EPA. I  
17 believe that we could argue that the manifesting  
18 event, the event of shipping a load of hazardous waste  
19 is not a reportable event to EPA. And it's really the  
20 discretion of the of the department right now in  
21 trying to include a greater sort of realm of the  
22 regulations.

23 The transactions were never recorded  
24 before now. And so it's an approach that we have

1       elected for electronic documents. We're getting sort  
2       of confused and making it more complicated around the  
3       edges because of maybe our approach. Maybe we have to  
4       rethink some of these things. Because what this  
5       effort was supposed to be was to save money to be able  
6       to go paperless.

7                       My company today has apps that we've  
8       written on our iPhones for non-hazmat loads of used  
9       oil and oily water. We use that, we capture that  
10      signature. We don't retain any paper. Within a  
11      certain timeframe all paper transactions, manifests,  
12      work orders, anything are all scanned and images are  
13      retained. I'm afraid again that we're maybe muddying  
14      the water, you know, impacting the potential savings  
15      by complicating some of the process.

16                    **MR. BARNES JOHNSON:** Okay. Thank you,  
17      Catherine. Appreciate it.

18                    **MS. CYNTHIA WALCZAK:** Before she leaves  
19      could I ask questions of the commenters?

20                    **MR. BARNES JOHNSON:** Yes, you may.

21                    **MS. CYNTHIA WALCZAK:** Catherine, thank  
22      you for your time. Could you very briefly summarize  
23      for me what you see as the advantages and

1 disadvantages of the hybrid approach to your business  
2 line or your company?

3 **MS. CATHERINE MCCORD:** I'm a little  
4 confused in the sense that, is the hybrid approach  
5 really just to satisfy the needs where some people  
6 haven't transitioned? But is it also to cover the DOT  
7 requirements that there's paper on the truck? From  
8 the perspective of DOT, I think we could work this out  
9 with DOT that the manifest that goes along for the  
10 road could be a bill of lading. That would be much  
11 easier for many companies who might -- some of us  
12 invested in four-inch printers for certain types of  
13 DOT bill of lading transactions.

14 There would be the electronic manifest  
15 going on its way and then the case of the paper on the  
16 truck could be something that does not, the image of a  
17 manifest. That is a huge step in costs and effort in  
18 requiring that that be an image. With respect to the  
19 delay of the hybrid because we don't have a system  
20 throughout, I think once it's working it's going to  
21 flip very quickly. If it's not working we should be  
22 looking at root causes and what's not working.

23 **MR. BARNES JOHNSON:** Okay. Thanks,  
24 Catherine. Our next public commenter is Laurance

1 Goodman, Senior Environmental Specialist with the  
2 Vopak Terminal Deer Park. Welcome. And we would like  
3 to ask the public commenters to keep their comments to  
4 five minutes, if at all possible. And also remind  
5 public commenters, you're more than welcome to submit  
6 written comments as well for the board to consider.  
7 Thanks. Laurance?

8 **MR. LAURANCE GOODMAN:** Thank you. Just  
9 wanted to offer up some advice. Because Texas does  
10 require that TSDf submit written waste receipt summary  
11 reports. And some of the comments I've heard over the  
12 last day and-a-half, I can tell you some issues you'll  
13 have at least in Texas. The state waste code ID --  
14 there was talk of a drop down -- we actually utilize  
15 an eight-digit number with four of those as a sequence  
16 number that the customer generates at random. My  
17 site, we have 256 tanks at one of my large quantity  
18 generators, and being a storage terminal we can have  
19 different products daily.

20 I think on average, if I was rough  
21 guessing, I think we have about 110, 115 different  
22 state waste ID codes right now that could change on a  
23 whim. And you could have multiple sequence numbers  
24 for the same type of waste, being if we wanted to

1 track it by customer or whatever the situation may be.  
2 The form codes are the same.

3 And then in Texas we also require non-  
4 haz class one waste to go on a hazardous waste  
5 manifest as well. If we're going to go this route,  
6 you'd have to have a way to designate what's haz and  
7 non-haz. Often, too, with the drum shipments you have  
8 multiple drums. Some are haz, some are non-haz. So  
9 you'd run into that issue.

10 By far the most common error when  
11 updating the state electronic manifest system, is the  
12 EPA ID number. Especially when the generator is the  
13 transporter because they have two different EPA ID  
14 numbers and they never put the one for the  
15 transporter. We always end up looking those up and  
16 having to correct those. And it's quite a chore.

17 And then the last thing we struggle  
18 with, at least with the Texas system, is the land  
19 disposal restriction forms. We have no where to put  
20 those. We end up having to keep a manifest copy with  
21 that anyway.

22 If you go fully e-Manifest, hopefully,  
23 some thought should probably be put into additional  
24 forms being able to be uploaded and retained. Because

1 those are usually good for a year and we usually don't  
2 send those with each load. That's all I wanted to  
3 comment. Thanks very much for your time.

4 **MR. BARNES JOHNSON:** Questions for  
5 Laurance?

6 **MS. CYNTHIA WALCZAK:** Yes, please.  
7 This is Cindy. Thank you for your time. You  
8 indicated that in certain cases non-haz waste is going  
9 out on manifest in Texas. I assume it goes to a  
10 variety of receiving facilities and they might be big  
11 or small. What's your impression about their ability,  
12 those receiving facilities to accommodate what's being  
13 required of the haz waste TSDFs?

14 **MR. LAURANCE GOODMAN:** Sure. Actually,  
15 we also operate a class-one deep well TSDF. And  
16 currently we use an electronic manifesting system that  
17 we print our own manifest, but also works with the  
18 state of Texas' system. We currently do this already.  
19 We're all for it. We've been trying to participate --  
20 I actually worked with Scott a little in the past on  
21 it as well.

22 It would simplify everything. A lot of  
23 the comments I've heard at Texas conferences and  
24 whatnot, industry is excited because -- not that we

1 ever do this, but it would cut down on the fines they  
2 see for lack of recordkeeping and proper record  
3 retention. And I think that's a big buy-in for  
4 customers to know that that responsibility is going to  
5 be gone.

6 **MR. BARNES JOHNSON:** Thanks, Laurance.  
7 Our next public commenter is Paul Johnson. Welcome  
8 Paul. Paul is the Director of Environmental Affairs  
9 at Kinsbursky Brothers, Inc.

10 **MR. PAUL JOHNSON:** Hello. So  
11 Kinsbursky Brothers is a battery recycling facility.  
12 And we do receive some of our materials on a manifest  
13 but we generate quite a few manifests. And really, I  
14 had three questions for the panel. Have we considered  
15 how we're going to collect fees for exports?

16 If the TSDF is the facility that's  
17 going to manage the fees and the accounting of this  
18 and that facility is overseas, we don't have the  
19 authority to impose upon them to pay these fees. The  
20 second part is how we're going to handle conditionally  
21 exempt small quantity generators.

22 You know those EPA ID numbers on the  
23 manifest all just say CESQG. You're going to have 25  
24 customers that have the same EPA ID number, and I'm

1 not hearing that the system will be able to manage  
2 that. And then, I guess one of the questions is, what  
3 the actual fee that we're talking about here? I think  
4 I read in the documents we're talking \$10 to \$20 per  
5 manifest. I think that a lot of people would be  
6 interested to see what that actually is.

7 If the number of manifests that we've  
8 talked about is as high as we have, we should have  
9 ample money to pay for the program, the development  
10 and everything that's in there. That seems like that  
11 might even be excessive. We would wonder if the fees  
12 will go down later. Those are really my main  
13 questions.

14 The last thing I would want to mention  
15 is TSDFs are a service company. We provide a service.  
16 When we talk to our customers and manage their  
17 materials we're providing a service to them.

18 And so managing a fee, you're putting a  
19 burden on the TSDF to manage this whole program and  
20 pay those fees without really providing a clear  
21 mechanism to me to pass that on to the generator,  
22 without seeming like we're just raising our prices.  
23 And we're considerate of that or we're conscious of  
24 that and we don't want to appear to be just raising



1 our prices. The more this is thought out, we need to  
2 have a mechanism to notify the generators that this is  
3 something that they're all going to share in. Because  
4 the TSDFs just aren't going to be able to take that  
5 whole burden on.

6 **MR. BARNES JOHNSON:** John?

7 **MR. JOHN RIDGWAY:** Thank you. And  
8 Paul, thank you for your time. My question is about  
9 your statement of out of country shipments. Can you  
10 explain just a little bit more why you would not be  
11 able to, in your contractual arrangement with any  
12 business, inside or outside the country, come to some  
13 fee-inclusive payment.

14 **MR. BARNES JOHNSON:** It was not that  
15 they may not pay you for the material, but there's no  
16 mechanism for that entity, in a foreign country, say  
17 Korea or something to log in and participate in this  
18 program. We're going to have to generate a shipping  
19 paper to export the materials. We are currently  
20 working with the electronic exporting program, which  
21 is kind of similar. But there's no way to make them  
22 accountable for paying a fee to the EPA for  
23 manifesting. They're in a different country. It's  
24 going to be a burden on the generator, which in some

1 cases may be a TSDF, but in a lot of cases that  
2 generator who exports may not be a TSDF. And they may  
3 actually do the exporting themselves. They may not  
4 work through a service provider like a TSDF.

5 **MR. JOHN RIDGWAY:** Thank you.

6 **MR. BARNES JOHNSON:** Thomas Baker.

7 **MR. THOMAS BAKER:** Thomas Baker. As a  
8 battery recycler, most of the batteries, I'd imagine,  
9 fall under the universal waste regulations. Can you  
10 just comment on how many of your transactions, rough  
11 percentage, actually require a manifest by regulation  
12 versus those that would be CESQGs or maybe fall under  
13 the universal waste regulations.

14 **MR. BARNES JOHNSON:** Even though the  
15 universal waste, a lot of the shipments do come on a  
16 manifest. People choose to use a manifest for the  
17 universal waste shipments. In fact, Veolia themselves  
18 ships all their universal waste on a manifest. But I  
19 would say 25 to 30 percent of the statements that we  
20 receive come on a manifest. A lot of them can travel  
21 on the bill lading, but the generators choose to use a  
22 manifest for the tracking purposes, I think.

23 **MR. THOMAS BAKER:** Okay. Thank you.

1                   **MR. BARNES JOHNSON:** Anymore questions  
2 from the Board? All right. Thank you, Paul, very  
3 much.

4                   **MR. PAUL JOHNSON:** Thank you.

5                   **MR. BARNES JOHNSON:** Okay. Our next  
6 public commenter is Shaun Nieves who is Director of  
7 Information Technology at Kinsbursky Brothers, Inc.  
8 Welcome, Shaun.

9                   **MR. SHAUN NIEVES:** Thank you. I  
10 actually work with Paul. My comments are specific to  
11 the IT ramifications of this system. It was mentioned  
12 yesterday how it's agile development. Someone also  
13 brought up the minimum viable product.

14                   Just to give you a little background on  
15 myself, I was on the advisory board with Environment  
16 Canada's notice system. And they had multiple facets,  
17 including services, online system as well as paper.  
18 They targeted from that three-pronged approach. Later  
19 on, they dropped that services portion. And a lot of  
20 the buy-in in from the users dropped off after that.

21                   I just want to implore the advisory  
22 board not to be myopic when considering every aspect  
23 of this system. We need a services option. I'm sure  
24 a lot of the colleagues that are probably listening in

1 agree with me that, to make it easier on the TSDFs to  
2 bring this data into the EPA into the e-Manifest  
3 system, we'd need that services option to be ready day  
4 one.

5 One final comment in regards to getting  
6 buy-in again from us and the industry that are working  
7 directly with the e-Manifest system. I think once we  
8 launch on day one in February, we would need at least  
9 a biweekly meeting or something similar where we can  
10 kind of provide our feedback to the developers,  
11 provide our feedback to the board on how things are  
12 going and how things are progressing.

13 I'm sorry, one last final comment. I  
14 think in order to get buy-in from the generators I  
15 think -- because we receive material that's mixed.  
16 More often than not, we'll look into a drum and there  
17 will be something that's in that drum that's not on  
18 the manifest and we'll need to provide an update to  
19 the e-Manifest system.

20 And I think if the generators are  
21 required login to approve that change, we'll get buy-  
22 in from the generators. That's all I got.

23 **MR. BARNES JOHNSON:** Okay. Any  
24 clarifying questions for Shaun? Okay. Seeing none.

1 Our next public comment here is Mark Lewis. Mark is  
2 the Vice President of Regulatory Affairs at Energy  
3 Solutions. Welcome, Mark.

4 **MR. MARK LEWIS:** Yes. Thank you very  
5 much, both to the EPA as well as the advisory board  
6 for letting me make some comments here this morning.  
7 A little bit about Energy Solutions. Energy Solutions  
8 is primarily a radioactive waste management company.  
9 And we conduct disposal, processing, transportation,  
10 generation, brokering, all the aspects of being able  
11 to move radioactive waste from countryside.  
12 Unfortunately, we also have to take some hazardous  
13 waste on occasion so we are a TSD licensed facility at  
14 our disposal sites for some characteristic type  
15 hazardous wastes.

16 So again, thank you for letting me be  
17 here. Over the last day and-a-half or so I've been  
18 listening to the process that you've gone through so  
19 far in terms of e-Manifesting. Some of the things  
20 that came out of it of course is that Congress is not  
21 fully appropriated or funding the \$16 million that's  
22 been requested as seed money to get things started.  
23 You needed to develop a hybrid system to get the e-

1 Manifest system started rather than having the fully  
2 suggested program from the beginning.

3           Issues with funding and fees, issues  
4 with collections and penalties, EPA is required by  
5 Congress to allow paper versus electronic manifesting  
6 only, and et cetera, the kind of things that I've  
7 heard. I think it's very unfortunate that EPA is well  
8 down the road that they are. But I did want to at  
9 least offer up some experience in the radioactive side  
10 of business that the Nuclear Regulatory Commission's  
11 done with their uniform manifesting system that seems  
12 to be working very well; and consequently doesn't have  
13 the, what I would say, expensive government  
14 infrastructure that's being suggested here and the  
15 costs associated with it.

16           What the NRC did in their electronic  
17 manifesting system or in their uniform manifesting  
18 system, I should say, is they defined the requirements  
19 that are needed on a paper form. And they have also  
20 defined the electronic transfer of the information to  
21 them by what I'm going to refer to as the TSD  
22 facility. That's an EPA term. On the radioactive  
23 side it's disposal process or facility. We can use  
24 those terms interchangeably.

1           The TSD facility has the total burden  
2 of responsibility for the whole system on the  
3 radioactive side. TSD facility charges the customer  
4 in their regular fees structure in order to be able to  
5 have a structure at the TSD facility that would either  
6 take the paper manifest information and manually input  
7 it into the electronic system. It is the one that  
8 puts together the electronic manifesting input  
9 requirements to that facility. The TSD facilities  
10 even allow commercial IT type companies to develop  
11 electronic manifesting information. And as long as  
12 that information is transferred in a format that the  
13 TSD facility or the NRC dictates, then it doesn't  
14 really make any difference how those electronic  
15 manifests are sold to generators, for example, or  
16 carriers.

17           So again, the TSD facility is the one  
18 that makes the system work. And of course, it's  
19 funded through the fees that are charged for the  
20 service itself. Again, the NRC does dictate, really  
21 through the DOE, because DOE is the one that actually  
22 pays the TSD facilities for the information.

23           That's somewhat of an incentive to the  
24 TSD facilities for having the infrastructure within

1 their program to be able to collect all of this. The  
2 fee, by the way, is pretty minimal. It certainly  
3 doesn't cover the costs of a TSD facility transferring  
4 that data to the DOE for NRC review. But it is  
5 somewhat of an incentive, I think, to make sure that  
6 the disposal and process facilities do the transfer  
7 materials.

8 The commercial companies that do  
9 develop the electronic manifesting systems, of course,  
10 sell their service and do training on how to use the  
11 systems. But it's not a requirement that they have to  
12 go to some commercial company to do that. They find  
13 that it's a lot easier in order to make sure that they  
14 don't have any input errors or problems.

15 The receiving facility at TSD, again,  
16 funds their own costs through generator fees. Anyway,  
17 just in conclusion because I see that I'm close to the  
18 end right here, the NRC and the DOE, through their  
19 funding mechanism for management of that electronic  
20 information, results in a program that is magnitudes  
21 less than what's being suggested here being collected  
22 by the generators.

23 And again, for things like for example  
24 there is no cost to the NRC for manual input of paper



1 manifests. And there's no help desk system that needs  
2 to be there because the TSD facility provides that  
3 kind of help desk information. So anyway, I see I'm a  
4 little bit past time. I appreciate the opportunity to  
5 talk. Glad to answer any questions before I sit back  
6 down.

7 **MR. BARNES JOHNSON:** Yes, Cynthia?

8 **MS. CYNTHIA WALCZAK:** This is Cindy  
9 Walczak. The way you've described the NRC system  
10 actually sounded very familiar to me. It sounded like  
11 the hybrid system with a few exceptions.

12 **MR. MARK LEWIS:** It is.

13 **MS. CYNTHIA WALCZAK:** It is? Okay.  
14 Good. I was going to ask you to set me straight if I  
15 as misunderstanding. Except that I think that it  
16 didn't have the other users input. Is that correct  
17 that the other users don't have access to the system?

18 **MR. MARK LEWIS:** Oh, no. The users are  
19 required by the TSD facilities to go online and  
20 transfer their data. Now they have the ability to  
21 transfer the data in a format similar to what was  
22 suggested here. They're quizzed, they're questioned,  
23 they have screens that they have to fill in blanks on  
24 and as it's being inputted, it's being checked to make

1 sure that it's appropriate for that particular block  
2 or whatever. Or they have the ability to scan the  
3 data from a hardcopy and upload it so that there's a  
4 manual input of the information. We're getting input  
5 primarily from the generators. There's very little  
6 input from the transporters in this regard. But the  
7 transporter is defined by the generator when the  
8 generator uploads the information.

9 **MS. CYNTHIA WALCZAK:** So the generator  
10 is uploading the information, not the TSDF? I'm  
11 confused.

12 **MR. MARK LEWIS:** No. The generator is  
13 uploading to the TSD, and then the TSD is sending it  
14 to the NRC.

15 **MS. CYNTHIA WALCZAK:** Okay. And one of  
16 the concerns that was expressed was routine shipments.  
17 That is, you can imagine from a DOD facility, for  
18 example, if they ship explosives every Monday, that  
19 isn't something that you want a public system to  
20 reveal. How did NRC address those?

21 **MR. MARK LEWIS:** Well, our facility is  
22 commercial. We don't receive sensitive or security  
23 kind of waste from the DOE. We do receive an awful  
24 lot of DOE waste, but certainly not sensitive

1 information that would be subject to some kind of  
2 public scrutiny. But the point is that as the  
3 generator uploads the information or enters the  
4 information into a TSD facility's website, that's not  
5 public. It really doesn't become public until it's  
6 being sent by the TSD to the NRC.

7 **MS. CYNTHIA WALCZAK:** Thank you.

8 **MR. MARK LEWIS:** Sure. Any other  
9 questions?

10 **MR. BARNES JOHNSON:** I believe Tom  
11 wanted to ask a question.

12 **MR. THOMAS BAKER:** I think he answered  
13 the questions but I'll just make sure. Tom Baker.  
14 The data is publicly available through the NRC at the  
15 completion of the transactions?

16 **MR. MARK LEWIS:** That's correct.

17 **MR. THOMAS BAKER:** And then also is  
18 there a similar chain of custody transfer requirement  
19 to sign manifests by transporters in the process of  
20 going from --

21 **MR. MARK LEWIS:** There is. The NRC  
22 does have that similar kind of requirement. It does  
23 require within a certain timeframe, after receipt at

1 the TSD facility, to notify the generator that the  
2 waste has been received.

3 **MR. THOMAS BAKER:** Okay. And again,  
4 that's been accomplished sounds like through a hybrid  
5 approach.

6 **MR. MARK LEWIS:** Through a hybrid  
7 approach. It actually is managed by the TSD. But  
8 again, routine regular inspections by licensing  
9 agencies ensure that it's being done correctly.

10 **MR. THOMAS BAKER:** Okay. So it's  
11 papered to the TSDF and then it's made electronic at  
12 that point, and that's been a successful process in  
13 your opinion?

14 **MR. MARK LEWIS:** It's either electronic  
15 or paper. Either one to the TSD. But then when it  
16 goes from TSD to the NRC, then it is electronic only.

17 **MR. THOMAS BAKER:** Okay. Thank you.

18 **MR. ROBERT KLOPP:** Barnes?

19 **MR. BARNES JOHNSON:** Yes? Rob, please?

20 **MR. ROBERT KLOPP:** I just want to make  
21 sure that I'm following you. Are you suggesting that  
22 in the NRC system there really is not a full-blown  
23 application with an API and all that stuff? It's

1 really just a data exchange capability that pushes  
2 data to NRC?

3 **MR. MARK LEWIS:** It's primarily a data  
4 exchange. You're absolutely right.

5 **MR. ROBERT KLOPP:** And the TSDs then  
6 build the application themselves if there is such a  
7 thing?

8 **MR. MARK LEWIS:** Yes. They can either  
9 build it themselves or they can buy it from commercial  
10 companies that supply it.

11 **MR. ROBERT KLOPP:** Okay. Thank you.

12 **MR. MARK LEWIS:** Any other questions?  
13 Thank you, very much.

14 **MR. BARNES JOHNSON:** Thank you very  
15 much, Mark. Our next public commenter is Larry Fura.  
16 He's the Director of Technology at Waste Technology  
17 Services, Inc. Larry made arrangements to provide  
18 public comment before the meeting so we will be giving  
19 him a 20-minute comment period. These are the rules  
20 folks. I don't make them up. I don't make the rules.

21 **MR. LARRY FURA:** I will try to keep it  
22 shorter. I know I stand between us and lunch so I'll  
23 try to do my best here. I've got a few different

1 comments. First of all, thank you for allowing me to  
2 do this.

3 My first comment is yesterday Mr.  
4 LaShier asked the question about how to incentivize  
5 disposal facilities to send in electronic scanned  
6 images and data files to e-Manifest versus individual  
7 paper hardcopies with no data file attached. Since  
8 the proposed regulations are looking to allow the  
9 disposal facilities to pass through the costs they  
10 incur to the original generator of the manifest, there  
11 may not be a proper incentive on their part, in my  
12 opinion, to take the extra time and effort to scan and  
13 send data files. Because they will simply be allowed  
14 to pass those costs along to the generator.

15 I would like to suggest that the final  
16 regulation should specify that the disposal facility  
17 is only allowed to pass through an amount up to the  
18 actual costs imposed by the EPA for the specific type  
19 of manifest submission, with the exception of mailing  
20 or transmitting a scanned image without a matching  
21 data file. In which case, the disposal facility can  
22 only pass through an amount equal to the cost of  
23 sending a manifest scanned file with data file  
24 attached.

1                   This way you would incentivize the  
2 disposal facility by giving them a financial interest  
3 in the matter which should hopefully reduce the  
4 volumes of manifests being sent to the processing  
5 center via postal mail.

6                   **MR. JOHN RIDGWAY:** John Ridgway. Just  
7 for clarification. When you say disposal facility you  
8 mean the generators or do you mean the receiving  
9 facilities?

10                  **MR. LARRY FURA:** The receiving disposal  
11 facility.

12                  **MR. JOHN RIDGWAY:** Thank you.

13                  **MR. LARRY FURA:** So that was my comment  
14 on that. The second comment I'd like to make is I'm  
15 wondering if EPA should clarify who actually owns the  
16 data maintained in e-Manifest and who is allowed to  
17 release it to the public. Once e-Manifest comes  
18 online, should the states be allowed to distribute  
19 data from e-Manifest or should those requests be  
20 directed to the EPA since the states are only users of  
21 e-Manifest verses the actual collectors of the data.

22                         My concern is that interested parties  
23 could get around the proposed 90-day time limit  
24 regarding the public release of manifest data by

1 simply making a request to the individual states who  
2 have access to that data while it is still considered  
3 in process. Questions about that?

4 All right. The last part of it. This  
5 is something that's been rehashed multiple times, but  
6 I'd like to bring it up. And I've got a little twist  
7 to it. As a company, WTS operates as what the e-  
8 Manifest system classifies as a broker. We personally  
9 feel we provide services well beyond that. But we do  
10 represent a significant number of generators, and are  
11 responsible for preparing the hazardous waste manifest  
12 and other paperwork for those generators.

13 EPA appears, based on the published  
14 rules and regulations, to consider the issue of  
15 confidential business information, or CBI, as a closed  
16 issue. However, we would like to express our concerns  
17 in regards to this issue. The EPA appears to feel  
18 justified in not protecting manifest information  
19 because many of the states that currently collect it  
20 make it freely available. However, it has been noted  
21 in the past that only about half of the states  
22 actually do collect this information.

23 And for many of the states that do  
24 collect manifest information they do not appear to



1 collect, or at least to publicly disclose, all of the  
2 data elements that are part of a manifest. In  
3 particular, most do not appear to collect the DOT  
4 shipping descriptions or much of the information in  
5 section 14 of the manifest that typically contains  
6 additional information, such as waste common names,  
7 profile numbers and other transaction related  
8 information that are sometimes required by the  
9 disposal facilities to handle the financial side of  
10 the shipment.

11 So really in a lot of cases I think the  
12 states and the EPA are considering this extraneous  
13 data, which is why they're not currently collecting  
14 it. Currently most states seem to only release the  
15 generator information, transporter information,  
16 disposal facility information and shipment date. And  
17 then for the individual waste they release the  
18 quantity, container type and waste codes. And most of  
19 them seem to do it through very specific closed  
20 queries on their website. And that's where I've got  
21 the little PowerPoint here to provide a couple of  
22 examples.

23 First off, I apologize, it's kind of  
24 small but I'm trying to just be able to show kind of

1 what the web sites offer. The first one you're  
2 looking at is the state of New Jersey's manifest  
3 search capabilities on their website. From here,  
4 there's basic searches such as search by manifest ID,  
5 manifest by generator, manifest by TSDf, et cetera.  
6 And the user can go in and put in some basic  
7 information that they're looking for, they can pick an  
8 EPA ID number, enter a start date, hit okay to that  
9 and then they'll get back some basic results.

10 And as you can see here, we're getting  
11 back just the generator, the transporter, manifest ID,  
12 quantity, unit codes, waste codes and date shipped.  
13 You're not seeing any special handling information,  
14 you're not seeing any DOT shipping descriptions, it's  
15 very limited in what it's exposing.

16 And if we look at this other slide, if  
17 you click on one of those particular manifests, the  
18 only additional information you're getting are some  
19 names of the facilities which you could get through  
20 corresponding lookups of the EPA ID numbers. This is  
21 the state of New York. The state of New York actually  
22 does provide data downloads. You can at any point  
23 download an entire year of data.

1           If you take that data, import it into  
2 Microsoft Excel it's going to look something like  
3 this. And if we look at the fields that are there,  
4 again, just some basic information, manifest tracking  
5 number, transporters, discrepancy information, waste  
6 quantities, waste codes. You're not seeing, again,  
7 that special handling information, you're not seeing  
8 full DOT descriptions, which would give additional  
9 clues to what that waste really is. Finally, the last  
10 example I prepared here was the state of California.

11           Again, they have a very limited  
12 selection of reports that you can run from it. You  
13 can find a specific manifest or a lot of the reports  
14 were really more summaries. If we look at something  
15 that I can pull up here -- and I blanked the  
16 information as I needed an EPA ID number and I didn't  
17 want to expose our customers information, but, you  
18 know, in this case -- again, we're worried about that.  
19 In this case here you can see that you're just  
20 basically getting back some waste codes, tonnage,  
21 quantity. No additional information about the waste  
22 beyond that information that's there.

23           And then you can pull summaries that  
24 are just going to give you by year totals that they've

1 done. And you can pull a waste code summary report  
2 where they're just giving you what the description is  
3 of the California state specific code and what that  
4 specific code stands for. Not necessarily the full  
5 shipping description of that waste.

6 That is my example there. In looking  
7 at those examples, my comment is by making the entire  
8 e-Manifest database available to the public, you will  
9 be potentially exposing more information than what is  
10 currently being publicly made available through the  
11 individual states, especially in the cases of the  
12 states that did not already collect this information.

13 And because EPA will be considered a  
14 central clearinghouse, you are bringing all of the  
15 manifest information to one location in a consistent  
16 format, which is ripe for data mining. Especially if  
17 the general public is allowed to conduct open-ended  
18 queries or obtain raw data dumps of the database  
19 versus needing to use more limited and very select  
20 well-defined searches.

21 Mr. LaShier, himself, this morning  
22 stated very passionately that this is going to be the  
23 first time all of this information is going to be  
24 brought together in one central spot, which is why I

1 think we really need to have serious consideration  
2 about this. If somebody currently wished to data mine  
3 this information, under the current system they would  
4 need to make a request to each of these individual  
5 states separately. They would need to combine that  
6 information that is provided in vastly different  
7 formats together to create a consistent searchable  
8 format, which would represent a monumental task and  
9 would still leave them with a database full of gaps in  
10 the data.

11           However, because not all states collect  
12 manifest information, that ability to generate a  
13 complete database is not currently possible. But now  
14 with e-Manifest that will be a reality.

15           To take this one step further -- and  
16 this is kind of my little hitch on this that maybe  
17 hasn't been thought about. Under the current paper  
18 system, our company's customer list, being a broker --  
19 which we consider that list extremely confidential and  
20 take great care to keep it private -- is in no way  
21 publicly available.

22           Because currently when a generator  
23 ships material using the paper manifest, the broker is  
24 not listed on that manifest. However, for e-Manifest

1 to function properly, and support the role of the  
2 broker, the broker will need to be associated with the  
3 manifest as they will be the entity responsible for  
4 creating the initial manifest for the generator in the  
5 e-Manifest system.

6 And it is through this association, if  
7 searchable, that the general public and our  
8 competitors would be able to compile a complete list  
9 of our customers, and their shipment information,  
10 including the types of materials, volumes and other  
11 specifics such as common names, profiles, purchase  
12 order numbers, among other things which would be in  
13 that Section 14 of the manifest. And that could  
14 irreparably harm our business.

15 We would ask that on behalf of the  
16 broker community, that if a broad search or data  
17 dumps are possible in e-Manifest, that broker  
18 information be redacted at a minimum as this  
19 information has never been made generally available to  
20 the public and we do not feel it should be. I would  
21 also like to mention that in prior discussions  
22 surrounding e-Manifest, EPA feels that the concerns  
23 around terrorists having the ability to search for

1 manifests in transit could represent a major risk, so  
2 the idea of this 90-day timeframe was floated.

3           If the idea that 90 days later the  
4 material is already at the receiving facility and has  
5 been properly processed, and as a result no longer  
6 poses a threat -- and we did talk about this a little  
7 bit today. A couple people kind of mentioned it.  
8 However, basically the fact that the terrorists could  
9 use shipment information they downloaded in bulk, they  
10 could get a fairly good idea of how much a certain  
11 waste generator is producing and placing in the  
12 storage areas at any time in preparation for  
13 shipments.

14           We're worried about what's in shipment,  
15 but somebody just mentioned a little while ago that if  
16 somebody is making a shipment every week, they're  
17 going to be able to easily figure out that material is  
18 sitting in a holding area at that facility. Thereby  
19 making that facility a target.

20           By limiting the ability of searches of  
21 manifest data to very specific information, such as  
22 search by TSDf, search by generator, or search by  
23 manifest number, the ability for a terrorist group to

1 seek out specific materials is made much more  
2 difficult.

3           Especially if e-Manifest utilizes web  
4 controls such as Captcha or other services that  
5 require a human being to enter things such as street  
6 names or numbers from a picture each time they execute  
7 a query. By utilizing such technology, you increase  
8 the difficulty for an interested party to create a  
9 program to bot that could easily extract a large  
10 number of individual queries against e-Manifest and  
11 thereby circumvent the purpose of having a limited  
12 search capability. That would prevent them,  
13 ultimately, from obtaining a complete database  
14 hopefully.

15           I feel that by implementing more  
16 limited search capability versus open-ended queries,  
17 EPA would be providing a better balance for those  
18 individuals on both sides of this issue. On one side,  
19 you have the public who wants access, but is not  
20 paying for the system through tax dollars. And on the  
21 other side you have the industry who has repeatedly  
22 voiced CBI concerns and is ultimately the one who have  
23 the responsibility of paying the entire cost of the e-  
24 Manifest system. And at the end of the day could



1 argue that they are the true owners of the e-Manifest  
2 system since they pay for the entire system.

3 One way to think about that is that the  
4 EPA undertook the development of e-Manifest at the  
5 request of the regulated community, from my  
6 understanding. EPA could be viewed more as a  
7 facilitator of the system with ultimate ownership  
8 being the regulated community.

9 Taking that view also could provide  
10 more flexibility in regards to what should and should  
11 not be released. And it might also allow the EPA to  
12 build the system without having to adhere to CROMERR  
13 requirements for signatures and other government  
14 policies or rules if it's viewed more as a system  
15 owned by the regulated community, but simply  
16 facilitated by EPA.

17 Those are my comments and we did it in  
18 less time than 20 minutes. Any questions?

19 **MR. JOSHUA BURMAN:** Joshua Burman. Not  
20 so much questions. Mr. Johnson please redirect me if  
21 I go astray of where the committee process would lead.  
22 I'd just like to make some clarification points. I  
23 thank you today for speaking and raising these points  
24 to the board and EPA.

1           Just to clarify, there is a dramatic  
2 difference on the state and federal level looking at  
3 information between information that is public and  
4 information that is published. The difference being  
5 that information that has to be requested or sought  
6 and that information which is pushed out proactively  
7 through an engine like a web search tool or something.  
8 And I'm sure you're well aware of this.

9           You and I discussed this yesterday, but  
10 I wanted to make the point for the record. Minnesota  
11 being an example, California. I personally have  
12 examined many of these manifest information systems in  
13 an effort to not only serve this board, but also to  
14 improve Minnesota's system. Almost all information  
15 except with a very key point about item 14, which is  
16 very well made, is retained by many of the states. It  
17 is collected and maintained by many of the states that  
18 do collect manifests currently. However, it is not  
19 proactively pushed out through their web portals.

20           That information is public in those  
21 states and can be requested. Minnesota is an example.  
22 All information on manifests, with the exception of  
23 item 14, is requestable in Minnesota, but is not  
24 proactively pushed out and published though it is

1 public. So just wanted to make that point. Thank  
2 you.

3 **MR. LARRY FURA:** I guess my comment is  
4 just that I think we need to strike a balance here.  
5 We can make it available, but we don't have to go  
6 crazy. We don't have to make it extremely simple to  
7 search it, you know, to be able to compile an entire  
8 database and run any query your mind could imagine.

9 **MS. CYNTHIA WALCZAK:** Thank you very  
10 much for your time. I very much appreciate the  
11 presentation. It was very helpful. I certainly  
12 understand your perspective on the disadvantages to  
13 the system. Could you tell me, do you see any  
14 advantages to the proposed system from your  
15 perspective?

16 **MR. LARRY FURA:** Yeah. Actually, I do.  
17 From the standpoint of the paper, it's nightmare from  
18 our standpoint as a broker; it's a nightmare from our  
19 customer standpoint as the generator. You're just  
20 maintaining all these paper documents, you're trying  
21 to put corrections in. I mean I'm very excited for  
22 the fact that we're going to have a system that's  
23 going to be electronic, that's going to make sure that  
24 the data is accurate along the way.

1                   And it's going to alleviate a lot of  
2                   burden in regards to shipping and those kind of costs  
3                   associated with moving this paper around. From our  
4                   standpoint, there is still going to be shipping costs.  
5                   Because typically to facilitate a transaction you're  
6                   sending more than a manifest, typically. I think  
7                   we're excited about it and that's why we've been very  
8                   actively involved from the get go. Or I would say  
9                   would in the last few years when this kind of started  
10                  back up again, we've been very involved with the  
11                  development side and in the public meetings and things  
12                  like that.

13                         **MS. CYNTHIA WALCZAK:** Thank you. EPA  
14                         said earlier that the TSDf would be the ultimate  
15                         arbiter in terms of data corrections. Do you see that  
16                         as problematic from your perspective? That if you and  
17                         the TSDf are in disagreement about what is a  
18                         correction and what's a mistaken interpretation on  
19                         their part do you see --

20                         **MR. LARRY FURA:** Yeah. From that  
21                         standpoint I don't think it's going to be difficult to  
22                         work with the TSDf community. I do have concerns  
23                         around some of the corrections. We were having  
24                         discussions yesterday about the fact that it's common

1 industry practice that when somebody is shipping  
2 something, say a drum of hazardous waste, they don't  
3 pick it up, put it on a scale. They're going to just  
4 kind of rock the drum and say okay that's 300 pounds.  
5 Well it could be 350, it could be 200. They're just  
6 using their best guess. I've seen some of our  
7 customers JUST simply have a default weight.

8 They're going to say every time they  
9 ship that drum, it's 500 pounds and that's it. I have  
10 some concerns in regards to this whole data  
11 corrections. I think there needs to be sort of levels  
12 of data correction where maybe notices and things  
13 aren't sent out, red flags don't go off because you're  
14 making weight adjustments or something like that, you  
15 know. But maybe DOT descriptions being wrong or  
16 something like that, yeah, that should be notified and  
17 a big deal should be made of it. But you're going to  
18 have, I would say, the bulk majority of the manifests  
19 that come into a TSDF and they could answer better to  
20 that. But a majority of them are going to need some  
21 sort of weight corrections.

22 I mean unless you're shipping by gallon  
23 and you've got a full 55-gallon drum or something like  
24 that, it's very easy. But these measurements are just

1 done in the field and it's very hard to have accurate  
2 measurements. Most people don't weigh their  
3 individual containers and that kind of thing.

4 **MS. CYNTHIA WALCZAK:** I was thinking  
5 more along the lines of characterizing the waste. Do  
6 you find it's common that you would call waste a D001  
7 and the receiving facility's profile says it's D01,  
8 D02 so they just change it?

9 Do you find that happens or not?

10 **MR. LARRY FURA:** Well, with that same  
11 point, we would have already gone back and forth with  
12 the TSD when we're building that profile initially.  
13 By the time of shipment we've already agreed this is  
14 what it's going to be. Does that make sense?

15 **MS. CYNTHIA WALCZAK:** Not a big deal?

16 **MR. LARRY FURA:** No. I don't think so.

17 **CYNTHIA WALCZAK:** Thank you.

18 **MR. BARNES JOHNSON:** Thank you, Larry.  
19 Appreciate it. We've reached the point in time where  
20 we invite any remaining members of the public if  
21 they'd like to provide public comment. We do know  
22 that James Williams, who is the Vice President of  
23 Government Affairs at the Environmental Technology  
24 Council, would like to provide public comment. Please

1 James? But if others in the room are considering  
2 giving public comment now is the time to do that.

3 **MR. JAMES WILLIAMS:** Thank you, Barnes.  
4 As Barnes mentions, my name is James Williams. I  
5 serve as VP of Governmental Affairs for the  
6 Environmental Technology Council, ETC. We're one of  
7 the leading trade associations that represents all  
8 sectors of the industrial and hazardous waste removal,  
9 treatment, transport and disposal industry. I would  
10 like to thank EPA for this opportunity today and  
11 obviously thank the advisory board.

12 So far most of the presentations that  
13 have been given have focused on the implementation and  
14 the technical aspect of this. In my position as VP  
15 for e-Manifest, when I first took the job I was touted  
16 with getting an e-Manifest bill through Congress.  
17 That was my first priority. It took two years for  
18 that process to happen.

19 It took a year to get the bill through  
20 the Senate, a year to get the bill through the House,  
21 and then ultimately signed by the President as Rich  
22 LaShier mentioned earlier. As I sit here watching the  
23 advisory board, I can remember the exact day in which

1 I was in meetings with Hill staff creating this  
2 entity. I'm very happy to see it in reality today.

3 But with that said, since the  
4 implementation of the bill, the challenge has been  
5 funding. That's what I wanted to spend a little bit  
6 of time speaking about and giving you guys some  
7 background history as it relates to that. Rich  
8 LaShier mentioned earlier that Congress has not been  
9 fully forthcoming with the funding needed to support  
10 the program. I think that really starts from the fact  
11 that initially when e-Manifest was first passed,  
12 Congress was in a CR. So right out the gate e-  
13 Manifest was behind the curve. For the first two  
14 years of the program --

15 **MR. BARNES JOHNSON:** That's a  
16 Continuing Resolution.

17 **MR. JAMES WILLIAMS:** Yes. A Continuing  
18 Resolution. I apologize for those who don't know.

19 So for the first two years Congress was  
20 in a Continuing Resolution, so for the first two years  
21 of the program there was no funding, even though EPA  
22 was working diligently to use the funds that it  
23 already had to try to begin the development of the  
24 program. Since that time, we have been receiving



1 funding, obviously not to the level that EPA and the  
2 President would have liked to have seen it. But there  
3 has been continuous funding in a range of between 3.2  
4 to 3.7 million per year.

5 Right now, Congress is in a Continuing  
6 Resolution that is due to end in a few moments. So e-  
7 Manifest is, at the present time, receiving funding  
8 for FY '17 that it received for FY 16.

9 The new challenge for me and and others  
10 who are diligently working with Congress and the  
11 appropriators, as the new administration comes in, is  
12 to assure them that EPA is moving progressively with  
13 the program. And that the fact that we're so close to  
14 the end, now is not the time to cut funding. That is  
15 a challenge that we'll be dealing with as we move  
16 forward.

17 There have been some instances in the  
18 past where the House appropriators did cut funding so  
19 we had to scramble to work with the Senate to get that  
20 funding reinstated. Funding continues to be a major  
21 challenge every year. And obviously, if there's no  
22 funding, there's no e-Manifest program.

23 I just wanted to kind of give you a  
24 history on how we came to be. And from a funding

1 perspective, what are some of the challenges facing e-  
2 Manifest. And I will say that the program on the Hill  
3 has tremendous bipartisan support, which is really  
4 good.

5 This is one of the few programs that,  
6 in terms of it getting through both the House and  
7 Senate, there was never a recorded vote. The bill  
8 passed the Senate on unanimous consent and it passed  
9 the House on suspension. That's a real rarity in this  
10 divided Congress that we deal with in this day and  
11 age. That is a prime example of how much support  
12 there is for the e-Manifest program on the federal  
13 level.

14 And to that end -- and I'll wrap up  
15 with this -- we have already been in contact with the  
16 Senate Environment and Public Works Committee as they  
17 prepare for the confirmation hearing of Mr. Pruitt.  
18 To inform them that there is this bipartisan support  
19 for the program and that the new Chair, Mr. Barrasso,  
20 Senator Barrasso, of that committee gets an assurance  
21 from Mr. Pruitt that he will not negatively impact the  
22 e-Manifest program.

23 While I understand you guys are working  
24 diligently on the technical and implementation aspect

1 of it, I want you to know that we are also working  
2 very hard on the funding aspect of it as well.

3 **MS. CYNTHIA WALCZAK:** Thank you for  
4 coming James. Could you tell me --

5 **MR. BARNES JOHNSON:** This is Cynthia  
6 Walczak?

7 **MS. CYNTHIA WALCZAK:** Yes. Thank you.  
8 Could you tell me the overriding goals of the e-  
9 Manifest Act?

10 **MR. JAMES WILLIAMS:** Yeah. Well, it's  
11 been a long time since I had to look at those goals.  
12 But in thinking back on this, one of the primary  
13 factors that led to this was to try and provide a  
14 central database in which hazardous waste treatments  
15 could easily be tracked in the country. We wanted to  
16 ensure that there was a massive paper reduction as  
17 well. And cost savings, not only to industry but also  
18 to the federal government. And then we also looked at  
19 this from an international perspective in terms of  
20 terrorism concerns.

21 Being able to track the waste  
22 appropriately as it went throughout the various states  
23 and to assure that the information will be protected  
24 within a central database. For me those were two of

1 the primary talking points that I often used on the  
2 Hill in terms of getting the bill through. But  
3 obviously, the cost savings to the federal government  
4 and cost savings to industry was a really big part of  
5 this.

6 **MS. CYNTHIA WALCZAK:** Okay. You would  
7 presume then, in Congress' view, it would not be a  
8 success if only one or two of the four goals were  
9 achieved?

10 **MR. JAMES WILLIAMS:** No. I think it's  
11 a success to Congress if all of the goals are  
12 achieved. I think that's what they want. The House  
13 appropriators in particularly keep a very close eye, I  
14 would say, on what EPA is doing with the funding it  
15 receives, how the funding is being used and how the  
16 program is being developed. I think from their  
17 perspective, having all of the goals achieved as  
18 written in the legislation would be a win.

19 **MS. CYNTHIA WALCZAK:** Thank you. One  
20 last question. You've been here, you've heard about  
21 the hybrid approach. Do you think that achieves all  
22 four goals?

23 **MR. JAMES WILLIAMS:** I think the hybrid  
24 approach is a good approach from a perspective of

1 getting something up and running. I think it's  
2 important that we see that from a funding perspective.  
3 I'm not an expert in the technical and implementation  
4 aspect of it. I'll indicate that. My expertise is  
5 getting the bills through Congress and getting the  
6 funding for the bills or what have you. But I think  
7 from Congress' perspective, based on the conversations  
8 that I've had, they just want to see a program up and  
9 running.

10 As Rich LaShier pointed out, earlier  
11 last year EPA testified that the program would be up  
12 and running by mid-2018. I'm suspecting that the  
13 appropriators are going to hold EPA to that. While  
14 we're in the process of trying to figure out what is  
15 the best approach, we can't lose sight of those  
16 timelines.

17 **MR. BARNES JOHNSON:** Any further  
18 clarifying questions for James? Okay.

19 Anybody in the audience, some members  
20 of the public that would like to offer public comment  
21 at this point? Going once? Okay. Great. We have  
22 someone who does. Please come forward, sir. And if  
23 you could identify your name and affiliation that  
24 would be great. Thank you.

1                   **MR. ROBERT ABRIL:** Thank you. My name  
2 is Robert Abril. I am the Director of Development  
3 with Triumvirate Environmental. We're an  
4 environmental management firm located primarily along  
5 the eastern coast of the United States. We operate  
6 several offices, TSDFs, we're a transporter, a broker,  
7 a generator, a consultant. We wear a lot of hats in  
8 the environmental industry. So just a couple of  
9 things as I've been sitting here over the past day.

10                   One thing, obviously, from a  
11 development standpoint, we have a fairly robust system  
12 that we use now to track all of our waste shipments,  
13 both from our clients and to our facilities. I know  
14 we've talked a lot about this hybrid approach, but I'm  
15 definitely curious in learning how we can take the  
16 data that we're already collecting and have a way to  
17 just transmit that data directly to the EPA system.

18                   You know, we've talked more about this  
19 hybrid method, but we're looking more for a direct way  
20 to do that. And we're in the process of rewriting our  
21 systems. This information is going to be helpful as  
22 we proceed.

23                   Just another question; and this is sort  
24 of just something that popped into my head yesterday.

1 Right now, with manifests every form has a unique  
2 number on it. And I believe it was discussed  
3 yesterday that there are like 13 companies out there  
4 that are printing these forms. And these numbers have  
5 to be unique. When we document the information, we  
6 take a form, we pull the number off of it and we put  
7 that in our system. How do we envision that's going  
8 to work in a paperless system?

9 How do we get those forms and how do we  
10 maintain that uniqueness? Because obviously, we can't  
11 have people just generating their own numbers. We  
12 could have all kinds of issues with numbers being  
13 duplicated across multiple generators and multiple  
14 transporters and facilities and things like that.

15 And then I guess because I'm also  
16 heavily involved in the reporting side, I'm curious to  
17 know more about how this e-Manifest rule is going to  
18 affect things like biannual reporting. If all of this  
19 information now is going to the EPA on a regular  
20 basis, are we still going to need to do something  
21 every two years?

22 And then how are the states that also  
23 have reporting requirements, in addition to the EPA,

1 how are those going to be affected as well? I think  
2 that's it. That's what I have.

3 **MR. BARNES JOHNSON:** Clarifying  
4 questions? John?

5 **MR. JOHN RIDGWAY:** Hi. John Ridgway,  
6 Robert. Thank you. To your first comment. You want  
7 to know how you get your data into this new system.  
8 Are you building this or modifying your system to meet  
9 CROMERR requirements? Do you see that as something  
10 that is expected of you?

11 **MR. ROBERT ABRIL:** Well, I mean, right  
12 now our system is obviously based on a paper. We  
13 track all our data in the system and then we print out  
14 our manifests, print out our LDRs and labels and all  
15 the respective forms. No, right now we're not  
16 looking. And that's one of the things that we want  
17 guidance on. Because we want to understand how does  
18 the EPA do it so that we can structure our own systems  
19 accordingly so that we can be in compliance with the  
20 same guidelines that the EPA is going to implement.  
21 It doesn't sound like they've made a decision on that  
22 at this point.

23 **MR. BARNES JOHNSON:** Any other  
24 clarifying questions for Robert? Yeah, Michael?



1                   **MR. MICHAEL HURLEY:** Hi, Robert. Mike  
2 Hurley from Massachusetts.

3                   **MR. ROBERT ABRIL:** Hi, Mike.

4                   **MR. MICHAEL HURLEY:** Hey. what you're  
5 looking to do, just to be sure, is you're looking to  
6 be the creator of the record with the unique block of  
7 manifest IDs to then populate EPA systems, the e-  
8 Manifest system but from front to back? So you  
9 wouldn't be a TSD coming in and back populating, you  
10 would actually be creating the record, and you would  
11 like to post that up?

12                   **MR. ROBERT ABRIL:** Yes. Correct. I  
13 mean, we collect the data, like I said, from pre-  
14 shipment all the way through to our facility. At any  
15 point we have access to that data. We can make  
16 correction to that data, but then what's the plan to  
17 get that into what EPA is going to be building?

18                   **MR. MICHAEL HURLEY:** Okay. Thank you.

19                   **MR. ROBERT ABRIL:** Thank you.

20                   **MR. BARNES JOHNSON:** Any additional  
21 clarifying questions for Robert? Okay. Thanks  
22 Robert. We appreciate it. Anyone else from the  
23 public that would like to make a statement or provide  
24 comment? Okay. AT this point in time we are actually

1 halfway through our meeting. Looks like Fred would  
2 like to jump in here at this point.

3 **DR. FRED JENKINS:** Yeah. I just got to  
4 state one thing for the record and just give you all  
5 an overview moving forward. So as a reminder, I have  
6 to state this for the record. I did receive two  
7 emails initially. I got an initial email of written  
8 public comments that have been distributed to the  
9 advisory board. Those public comments will be  
10 provided in the docket. There are also copies of them  
11 on the back table available for you all. After lunch  
12 we will resume the meeting and the panel will  
13 deliberate on each of the charge questions is  
14 essentially what will happen.

15 See you all after lunch. Thanks so  
16 much.

17 (Luncheon recess.)

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**MR. BARNES JOHNSON:** Welcome back everyone. Fred's going to help me with housekeeping here, but we are entering the point in our agenda where we're beginning to have the board wrestle with the various charge questions that we have put forward to them. I want to introduce another representative from EPA that you haven't had the benefit of meeting. This is MiMi Guernica. MiMi is the Associate Director of the Program, Implementation and Information Division where the e-Manifest program is housed. So MiMi and her team have developed this initial set of questions for the board to consider.

MiMi is going to present these questions to you. Another point of order that I will just give everyone a heads up on, is that we are going to try to reserve some time this afternoon for Josh to be able to express some of his views on all of the charge questions for the record.

Unfortunately, due to personal circumstances, Josh is going to have to leave us sooner than he would have liked. But we do want to get his viewpoints expressed on the record. We're going to be doing that as well.

1 Fred, correct me if I'm wrong, but it's  
2 also my understanding that as the board deliberates,  
3 should our team have any clarifying questions, they  
4 can direct those questions to the board. Just to  
5 enhance their understanding of where the board is  
6 coming out on a particular question.

7 **DR. FRED JENKINS:** Yes. That's  
8 correct. And just want to add I'm going to ask the  
9 agency to please allow the advisory board to provide  
10 their full response per charge question before you  
11 proceed with asking your clarification questions for  
12 the each charge question. In the other words, if you  
13 have a question while they're talking, just wait until  
14 they're done, the whole board, on the question. And  
15 then Barnes will give you an opportunity to ask any  
16 clarification questions on the advice that they've  
17 provided.

18 **MR. BARNES JOHNSON:** Okay. I'm going  
19 to turn it over to MiMi Guernica.

20 **MS. MIMI GUERNICA:** Thank you. Welcome  
21 to the Board. I've met some of you personally. To  
22 those I haven't, we're really happy you're here. This  
23 effort has been a long time in the making. We are  
24 delighted to have this back and forth with you and

1 benefit from your counsel. As Barnes mention, my name  
2 is MiMi Guernica and I'm the Associate Division  
3 Director for the Program Implementation and  
4 Information Division within the Office of Resource  
5 Conservation Recovery. Our division has been leading  
6 the e-Manifest project for many years. As you are  
7 well familiar by now, the project has many aspects.

8           The advisory board is one of them.  
9 System development, the regulatory development and  
10 another piece of the statue that actually has not been  
11 mentioned is the audit piece. We are subject to a  
12 variety of audits. Two audits have already been  
13 conducted, a financial systems audit and an IT audit.  
14 And those audits are going to continue forward.

15           I would like to turn to the charge  
16 questions. And this is a great opportunity for us to  
17 hear from you on these questions that we've developed.

18           Charge number one is how can e-Manifest  
19 better engage our user community with a goal of  
20 maximizing electronic manifest submission? And the  
21 first subset to that question is what hurdles do you  
22 foresee in getting user buy-in?

23           **MR. BARNES JOHNSON:** Okay. We're going  
24 to have our lead discussant start off, which is Mike.

1                   **MR. MICHAEL HURLEY:** Yeah. Okay.  
2 Hello. It's Mike from Massachusetts. On this overall  
3 issue of how we can better engage our user community -  
4 -

5                   **MR. BARNES JOHNSON:** Mike, I was  
6 instructed earlier, if you could just get a little  
7 closer to the mic. There's sort of an optimal like  
8 about four or five-inch distance from the mic that I  
9 think is optimal.

10                  **MR. MICHAEL HURLEY:** Okay. Is this  
11 better? Okay. On the overall question of how can you  
12 better engage user community to maximize the manifest  
13 submission. What we're looking at is there's kind of  
14 two issues here. You got to get the information out  
15 to people in general. And the way I was sort of  
16 thinking through this is, and these are my thoughts on  
17 it, you've got sort of two bigger points of contact  
18 where in Massachusetts you have 25,000 generators  
19 pretty much. It would be really hard to get hold of  
20 all of them, but you can go top down.

21                   Outreach would then need to be to the  
22 TSDs because they're your major data submission  
23 points. And then find all the smaller companies as we  
24 were talking about before, the receiving facilities.

1 They may not be in RCRA info, they may be state waste  
2 enterprises that are requiring a manifest to receive  
3 either recyclable materials or what have you. The  
4 states can help identify those and help push the  
5 information on to them.

6 The second thing is the need to  
7 identify the transporters and brokers. As a stated, I  
8 don't really know who the brokers are; I know who the  
9 transporters are. And certainly, through advisory  
10 committees and things like that I can push out that  
11 information and work with transporters, et cetera, to  
12 help get them on board with this.

13 For the hurdles, I think the major one  
14 at first will be just confusion. We're taking a very  
15 mature program, 30 years of paper manifests, and we're  
16 doing something different. Again, to get to every  
17 single generator and put their mind at ease is just  
18 impossible. And some also will not want to opt in.

19 They'll want to keep on doing the paper  
20 thing that they're very familiar with and they'll be  
21 contacting states and the state regs will have to be  
22 brought into line with the new federal program. That  
23 will also be confusing for a bit as well. And I think  
24 a lot of that will be to do outreach to state policy

1 people and have them really get their narrative  
2 completely prepared so when the questions do come in  
3 they can answer them.

4 There will be multiple points of  
5 contact on this, whether it's the states, whether it's  
6 the EPA help lines, whether it's the transporters, the  
7 TSDs or even brokers. And those are pretty much my  
8 thoughts. Josh do you have anything?

9 **MR. JOSHUA BURMAN:** Just a procedural  
10 question. Doctor Jenkins, are we intended to go in  
11 order presented in the charge question summary or is  
12 it more of a free for all?

13 **DR. FRED JENKINS:** No. It's not a  
14 free-for-all. This is our very first federal advisory  
15 committee meeting and I understand it's a learning  
16 process for everyone. The process is that each charge  
17 question has a lead discussant and also their  
18 associate discussants per charge question.

19 Barnes will ask each lead discussant to  
20 provide the initial response. After they've provided  
21 their initial response, then he will call on the  
22 associate discussants who are listed alphabetically  
23 order, in their assignments to provide their response.



1                   After that team has provided their  
2 response then he'll open up the opportunity for the  
3 entire advisory board to chime in and provide their  
4 responses for the record. Is that clear?

5                   **MR. BARNES JOHNSON:** Yeah. Thanks,  
6 Fred. Yeah. Just echoing the point that was made  
7 before. This is a learning process for us. This is  
8 the first FACIA. In fact, just on a broader issue,  
9 another related kind of learning issue that we've  
10 observed here, which is these FACIA meetings are  
11 designed in kind of a very structured way. Where at  
12 the beginning people are giving input to the board and  
13 at the end the board is giving their output back.  
14 That's kind of the overall design.

15                   The other thing that we've noticed, and  
16 it's came in some of the public comment. Fred has  
17 gotten some emails on this. Just a bit of confusion  
18 about this point that I wanted to clarify for folks.  
19 Members of the public are certainly still free to ask  
20 EPA questions about their thinking about e-Manifest.  
21 And they are also free to suggest questions or issues  
22 for the board to consider.

23                   Members of the public should just think  
24 carefully about if they just have sort of a factual

1 question that they want to ask EPA, you can ask that  
2 to us in some other forum. If you want the board to  
3 consider an issue and render advice to EPA, then  
4 certainly present it to the board. I hope folks get  
5 the difference there and that distinction.

6 **DR. FRED JENKINS:** And just to clarify,  
7 during the public comment period is the opportunity  
8 for the public to provide their input. For example,  
9 if I get an email before the public comment period,  
10 that's intended for a public comment, I'll make sure I  
11 get that email distributed to the board and make it  
12 publicly available for the board's consideration. I  
13 hope that's clear with everyone.

14 **MR. BARNES JOHNSON:** Okay. In the  
15 spirit of what you just said, Fred, continuing with  
16 question 1A. Michael, thanks for your initial input.  
17 Josh, you're the next associate discussant. So please  
18 share your thoughts.

19 **MR. JOSHUA BURMAN:** Joshua Burman. My  
20 state, which I'm an employee, has recently or still is  
21 currently in the midst of a very large environmental  
22 protection enterprise rollout. And my personal  
23 experience is one of the larger hurdles to getting  
24 user buy-in is the perceived, and I emphasize that

1 word "perceived" complexity of the user interface.  
2 What goes on behind the scenes, what widget takes data  
3 from what box and puts it into what part of the  
4 database, doesn't concern the user at all.

5           What they see is how busy is the web  
6 page? Are the instructions clearly stated? Is there  
7 a way for me to get help on every step and how that is  
8 perceived the very first time they sign in. My  
9 experience is if you've got wonderfully easy  
10 interfaces that are three steps in, but that very  
11 first one is not clear, you immediately lose a large  
12 segment of your user community and you then start  
13 receiving pushback to go back to the old method. "Why  
14 can't we just submit paper, that always worked."  
15 Well, because we're trying to save you tax money.  
16 "But this is harder." Okay.

17           It gets to be very difficult to  
18 overcome the initial impression. First impressions  
19 are very big. And one of the responses to making the  
20 minimal usable product, and I apologize I'm not using  
21 the correct term that Mr. Klopp very correctly has  
22 been referencing, is you don't want to field anything  
23 until it actually is usable. Because the other side  
24 of that is fielding something that if a user tries it,

1 it doesn't work you're at a very difficult time with  
2 that user. And trying to get them back is going to  
3 take a lot more time and effort than putting the  
4 initial work into making sure that what you put out is  
5 able to stand up on its own.

6 Coupled with that is immediately  
7 available help desk support for anything software  
8 related and even on the old paper side. A lot of  
9 questions come up as, well, if I do this but I did  
10 something online what happens then? And not only  
11 having that help desk support immediately available,  
12 but well publicized, referenced in the interface such  
13 that if you have questions on this screen click here  
14 or call this number.

15 Those are not the hurdles but those are  
16 the responses to the hurdles essentially. Maybe I'm  
17 getting ahead of myself there, but the hurdle would be  
18 the lack of help desk support. That was my experience  
19 over the last few years. The state spent all its  
20 money on building a system that had all the bells and  
21 whistles you can imagine. And we had, and almost  
22 still have, very little help desk support. A great  
23 frustration of the regulated community and regulators  
24 alike.

1                   **MR. BARNES JOHNSON:** Thanks, Josh.  
2 Appreciate it. Now we're going to hear from our  
3 second associate discussant which is John Ridgway.

4                   **MR. JOHN RIDGWAY:** Thank you. I don't  
5 have a lot to add at this point. I've been reluctant  
6 to start building draft responses until we've had a  
7 chance to hear from everybody. I definitely agree  
8 with what I've heard already. Additional hurdles I  
9 think are for the states. All the states that have  
10 their own unique systems or idiosyncrasies in linking  
11 up with a common database system. In our state, we  
12 have multiple people that deal with the annual reports  
13 and the data submissions that come throughout the  
14 year.

15                   And these staff people are really going  
16 to be the ones that are going to get these questions,  
17 I think, as much as help desk that is supported by EPA  
18 nationally. I think one of the hurdles will be, as we  
19 heard earlier, to work with that many people that are  
20 going to be involved throughout this process. The  
21 other one I think is -- well I'll wait. I'm jumping  
22 into part B here. I'll just leave it at that.

23                   **MR. BARNES JOHNSON:** Okay. Now's the  
24 free for all time. Actually, you guys should have an

1 open conversation among yourselves about the  
2 particular topic.

3 **MR. THOMAS BAKER:** Tom Baker. So just  
4 providing at least a viewpoint from the facilities  
5 that are receiving the waste, the industry that's been  
6 managing the waste. I want to point out it's a very  
7 mature industry. The hazardous waste industry, most  
8 companies that are managing the bulk of the volumes of  
9 the waste have put a lot of time and resources in the  
10 waste tracking systems to provide a service to the  
11 generators of the hazardous waste. I mean at the end  
12 of the day the customers of the receiving facilities  
13 are in fact the waste generator.

14 There's an urge to provide a valuable  
15 cost effective service to those folks who produce the  
16 hazardous waste to get it moved off site and  
17 effectively disposed. With that said I look at this  
18 question in a very broad sense, that the hurdles to  
19 getting buy-in really is to deliver a valuable product  
20 that the industry is going to want to use. We can  
21 build a system, obviously it's an optional program to  
22 use as electronic manifesting. The biggest hurdle  
23 quite frankly is building a system that the user group

1 has had input into that, is workable and simple to  
2 use.

3 It's going to come down to a cost  
4 benefit analysis for most companies and whether they  
5 use the system or not.

6 **MR. BARNES JOHNSON:** Robert?

7 **MR. ROBERT KLOPP:** So this is Rob. I  
8 want to say something really much bigger and broader  
9 about, I think, how to fix this. And the fact is that  
10 I've actually just lived this for the last couple of  
11 years. We started a project a couple of years ago,  
12 actually, it was one of those classic federal things  
13 were we'd spent \$300 million and utterly failed. The  
14 end users couldn't have been less happy with us. They  
15 were desperately unhappy.

16 In our case the users were the 50  
17 states and four territories. We had to convince them  
18 to, if you will, accept our system. We couldn't have  
19 dictated it to them. It's very similar in that you  
20 have to get buy-in from all these people.

21 We engaged them as the product owners,  
22 they own the product. I mean, seriously, they own the  
23 product. They build the user stories, they prioritize  
24 the user stories, they define the minimum viable

1 product. And we agilely engage with them every two  
2 weeks and show them what it is we've built. You get  
3 user acceptance testing every two weeks. The end  
4 result of that is a system that is really purposefully  
5 built for those people.

6 And it turned out so amazingly good  
7 that in the end -- because there's been all this talk  
8 about help desk. In the end, we did a usability test  
9 about a month before we rolled the first release of  
10 this out and we brought four of the state workers in  
11 who had never seen the product before. Again, these  
12 were subject matter experts who knew how to do the  
13 business process, but had never seen the application.  
14 We put them in a room, we gave them the screens, no  
15 help facility, no training, no user manual. And just  
16 said see if you can figure out how to do this. And an  
17 hour later they walked out and said we've closed  
18 cases.

19 Because we built it with every two  
20 weeks making changes to make it simpler and simpler.  
21 We literally built something that's so intuitive that  
22 they can just use it. And I think that by doing this  
23 all of the sudden all of these discussions about help  
24 desks, which are what you have to build when you build



1 something that no one knows how to use, those things  
2 just start to go away.

3           What I would say is I think that you  
4 need to build a community of users who are involved  
5 day in and day out in the pure sense of the Agile  
6 world, that includes all of the constituents that  
7 you're talking about. Some number of generators, some  
8 number of transport, some number of receiving  
9 facilities, the intermediaries, the legal people. All  
10 these people need to be represented so that their  
11 voice is heard in this thing. And let them define  
12 what the minimum viable product is and move forward.

13           And what you'll end up doing is getting  
14 buy-in from these people that will make the question  
15 about how to better engage with them go away because  
16 they will be engaged. There was a comment earlier  
17 that this shouldn't even be viewed as being owned by  
18 EPA, it should be owned by the regulated people. I'm  
19 not sure that I would go quite that far, actually let  
20 the, own it, but they should feel complete and total  
21 ownership.

22           Having a customer first orientation,  
23 starting off with giving them wire frames of a user  
24 interface, let them beat those wire frames up. And

1 make a user interface that's totally usable for them  
2 to solve the problems that they have to solve.

3           And this is sort of the way I'll close  
4 this little monologue off, think of yourselves as a  
5 start-up company who have no customers. And your job  
6 is to build a product that these customers will come  
7 to and buy. Because in fact you're going to ask them  
8 to pay for it. Think about what you would do if you  
9 were a start-up company and what you're going to do is  
10 go build a product and you have to attract them to  
11 your product.

12           And if you take that attitude I think  
13 you're much more likely to build something that makes  
14 all of these questions about engagement and help desks  
15 and a lot of these things just go away. Because  
16 you'll build a product designed to attract these  
17 people to you, designed from the beginning. That's  
18 how I would do this.

19           **MR. BARNES JOHNSON:** Yeah. John,  
20 please.

21           **MR. JOHN RIDGWAY:** To the context of  
22 the term users, it's, I think, broader perhaps than  
23 just the generators and the receiving facilities and  
24 transporters. And we've even gotten comments

1 submitted to us already. Indirect users here, I  
2 think, include the whole transportation sector that  
3 includes Departments of Transportation, federal and  
4 state. From my emergency management background, they,  
5 I think, would consider themselves users as well in  
6 terms of how they're going to access to the manifest  
7 data in the event of an emergency.

8 I want to be sure that we consider them  
9 as well. I think EPA should do that. And I don't  
10 know how much that's been the case.

11 **MR. BARNES JOHNSON:** More comments on  
12 this? This is a time when if EPA has any clarifying  
13 questions on the conversation, you're welcome.

14 **MR. STEPHEN DONNELLY:** Yes. This is  
15 Steve Donnelly. This is a question for the board.  
16 This is for Mr. Hurley.

17 When you talk about productive ways to  
18 reach the state policymakers -- say that's an avenue  
19 I'm interested in pursuing. How should we best work  
20 with those state policy tips? And Mr. Klopp and Mr.  
21 Ridgway brought this up as well. I think everybody  
22 did. There's people that are IT focused that we want  
23 and have been engaging with the system. But the  
24 policymakers on the state level that will be helping

1 get the buy-in for a lot of people, they'll be the  
2 people really with the stick on the state level  
3 pushing users to e-Manifest. How can we engage them?

4 And how should we and how often? What  
5 are some lessons learned? Everything. Thank you.

6 **MR. MICHAEL HURLEY:** In response to  
7 that question -- this is John Ridgway. One of the  
8 things that I've come to get familiar with is the  
9 relationship between the states and EPA and the  
10 delegated authorities with RCRA include the  
11 performance partnership agreement, the contract, in  
12 other words, as to how things are going to work for  
13 the money that the states get.

14 I think there could be consideration by  
15 EPA to work with the states to include, specifically,  
16 elements of the e-Manifest needs over the next couple  
17 years as those performance partnership agreements or  
18 PPAs get discussed and negotiated.

19 I think that's a tool that is often  
20 underutilized for these kinds of logistical priorities  
21 to be spelled out and clarified. And also it helps  
22 clarify what role the regions of EPA have in helping  
23 this to succeed, including how they're going to  
24 collaborate with the states to reach out and talk to

1 interested parties as well as political or  
2 administrative leadership in the agencies within those  
3 regions. I think that's something else that could be  
4 helpful.

5 **MR. MICHAEL HURLEY:** This is Mike  
6 Hurley again. I would follow up with that. And John  
7 is absolutely right. Because clearly this is more  
8 than just a data program, except that this is a data  
9 program and that the data people will be handling it.  
10 This is going to have so many policy implications,  
11 enforcement implications and everything else. We  
12 really need to make sure that all of planning and  
13 policy staff are really focusing on this. And as  
14 coming from -- as John was saying -- a region that's  
15 part of the PPA or something like that, it's a good  
16 focuser and it keeps a consistent message. Because HQ  
17 would then provide to the regions, the regions would  
18 then spit it out to the states. And that would be  
19 perfect.

20 **MR. ROBERT KLOPP:** And again I'll go a  
21 little bit geeky and say, you know, it's interesting,  
22 one of the things --

23 **MR. BARNES JOHNSON:** This is Rob Klopp.

1                   **MR. ROBERT KLOPP:** I'm sorry. This is  
2 Rob Klopp again. One of the things that seems to come  
3 up over and over and over again is that various  
4 constituents might like to tag their data along in the  
5 process. One state might want to put some extra  
6 information in, another state might want to put  
7 different information in, DOT might want to put  
8 different information in, and you can hear this sort  
9 of reoccurring theme, which basically turns into a  
10 user story.

11                   I think one of the things that you need  
12 to think about as you go engage the states and these  
13 other constituents is the fact that some of the  
14 requirements that make this attractive to them aren't  
15 necessarily EPA requirements. But they're the  
16 customer, right. If what you keep hearing is I need  
17 to manifest that has a state-specific data in there,  
18 if you want to get the state to buy-in then you need  
19 to find a way to satisfy that request.

20                   If the transport people say, I'd like  
21 to add some information in there about non-hazardous  
22 stuff, you want to get their buy-in, you need to add  
23 that stuff in. It's not like satisfying customers is  
24 dead easy, right, but it's the way you get the buy-in.

1                   **MR. STEPHEN DONNELLY:** And just a  
2 little more. You referenced having an application  
3 that was in 50 states and four territories. Could you  
4 talk a little more about how you accomplished such a  
5 geographically disbursed user base? How the user  
6 testing and user stories were created with 50 states.

7                   **MR. ROBERT KLOPP:** Sure. It's hard.  
8 And you guys will have a very similar problem.  
9 Basically, what we did was we said we are going to  
10 build a team of people that represented all of the  
11 states. By the way, not necessarily one or two people  
12 from every state, but a representative sample of the  
13 kinds of things that were going on. And there was  
14 about 30 of these people. And we got a commitment  
15 from them to actually be able to spend four to eight  
16 hours a week on this project. And then what we did  
17 was we built, from SSA employees, what we called sort  
18 of a proxy for those end users.

19                   And so Monday through Thursday the  
20 proxy, to the best of their ability, represented the  
21 various constituents. But again there's a proxy for  
22 each of the various groups that we're talking about.

23                   From Monday through Thursday they  
24 represented those people to the best of their ability.

1 And on Friday the real people came in and made the  
2 tiny little adjustments that the real people could  
3 make where the proxies might have got it wrong. But  
4 the point is that under no circumstances was any of  
5 this is driven by an IT person.

6 Even the proxies were business people  
7 that were SSA employees that were subject-matter  
8 experts, so far as we could be, in what the state  
9 people were actually doing. That's how we handled it.

10 **MR. THOMAS BAKER:** Tom Baker.

11 **MR. BARNES JOHNSON:** Tom?

12 **MR. THOMAS BAKER:** So to further  
13 elaborate on what Rob is saying. The diversity of the  
14 folks who were providing input on the system has to be  
15 taken into consideration. I think most of the input  
16 so far has come, I think, in large by the TSDFs, the  
17 receiving facilities, you know, the folks that have a  
18 big stake in this game. But quite frankly, a lot of  
19 the questions we're having are regarding CESQGs, state  
20 waste issues, somebody brought up the mixed waste with  
21 respect to radioactive waste shipments. Although  
22 they're not probably the power users or the large  
23 volume users, they are important users in the process.



1                   If you look at who is looking at the  
2 database and commenting on it and providing user  
3 input, don't limit yourself just to maybe the bigger  
4 companies.

5                   **MR. ROBERT KLOPP:** By the way, one last  
6 thing. And I don't know how this goes. You guys would  
7 have to probably sort this out yourself. But the  
8 other thing is, again, if you're a start-up company  
9 you have all these constituents. But you have to ask  
10 yourself first off who is the buyer. And if there's  
11 multiple markets that you're going after, which market  
12 are you going to go after first?

13                   One of the things you might ask  
14 yourself as your company, if you think that the  
15 receivers are the buyers, then maybe what you do is  
16 your first minimum viable product is a product  
17 designed with nothing in mind other than to be  
18 absolutely delightful to those folks.

19                   And then in the next step when you want  
20 it to be delightful to the generators, you extend it  
21 in an agile way to incorporate them. And then you  
22 extend and you extend and you extend. Because it may  
23 not really be possible to have a minimum viable  
24 product that makes everybody happy.

1                   Again, this becomes product strategy.  
2                   But the whole point is for you to think about  
3                   yourselves as if you're a product company, who are you  
4                   going to sell to? Who is going to buy it? And what  
5                   are the things you have to do in order to get them to  
6                   accept it? I think if you take that approach it will  
7                   start to help this user buy-in problem.

8                   **MR. BARNES JOHNSON:** Okay. Thanks,  
9                   Rob. Okay. Are you good, Steve? Okay. All right.  
10                  MiMi?

11                  **MS. MIMI GUERNICA:** All right. I think  
12                  we are ready for charge 1B. "What outreach efforts  
13                  have we overlooked? What can we do better?"

14                  I think you've touched on that to some  
15                  degree in your previous remarks but if there is  
16                  anything additional that you'd like to add that's  
17                  specific to this question we would love to hear it.

18                  **MR. MICHAEL HURLEY:** Okay. And just  
19                  to reiterate. Just some more outreach maybe to state  
20                  management planning bodies. And I'm going to say,  
21                  too, that will probably be easier once there are  
22                  advanced prototypes to bring on board because you can  
23                  give them something to play with. And once they're  
24                  actually using it they'll feel some ownership of it,

1 I'm thinking. And I would agree that perhaps maybe  
2 some input from the lowest order users, which will be  
3 the generators.

4 If the initial rollout is mostly  
5 focusing on service using individuals, like TSDs and  
6 et cetera, it might be really important to get  
7 generators in just to say, here's this interface, what  
8 do you think about it. And that's probably something  
9 we should look into. Again, it becomes how do you  
10 contact that many people versus the 400 TSDs. But  
11 that might be something that would be very helpful.

12 **MR. JUSTIN WILSON:** Justin Wilson. I'd  
13 like to add to that that having many hazardous waste  
14 generators.

15 **MR. BARNES JOHNSON:** Justin, can I just  
16 as a matter of order here, sorry. We have two  
17 associate discussants that we'll go through and then  
18 we'll let you jump in.

19 **MR. JUSTIN WILSON:** I'm sorry.

20 **MR. BARNES JOHNSON:** That's all right.

21 So, Josh?

22 **MR. JOSHUA BURMAN:** Joshua Burman. I'm  
23 just going to build I think on what Mr. Klopp already  
24 alluded to or, actually not alluded to, described

1 quite well in detail. My recommendation or suggestion  
2 to EPA would be, we learn to play best when we have  
3 toys to play with. Two modes rolling out enterprise  
4 initiatives; one is to work in the shop and work in  
5 the shop and work in the shop until looks perfect.  
6 And then roll it out and hope it works. And when it  
7 doesn't, panic.

8 The second is to rollout something with  
9 the clear proviso that it is not a final product. And  
10 it is not actually a product, it is for testing. But  
11 it is for testing with real data by real users. And  
12 as far as outreach, I can only speak for myself  
13 personally and for my state, but I believe it's  
14 possible that this attitude would extend elsewhere.  
15 My state would have several staff who have been  
16 waiting to see, well, what is this actually going to  
17 look like? How is this going to work? How are we  
18 going to put data in? How are we going to correct  
19 data? How are we going to view data?

20 And we have received many inquiries  
21 from both receiving facilities and generators in our  
22 state saying, what's it going to look like? How can  
23 we use it. I certainly believe our state could  
24 recruit several generators, both on the very small

1       unsophisticated side, all the way up to -- I can't say  
2       I would get Mr. Wilson's company, but some very large,  
3       sophisticated combination receiving facilities and  
4       generators. Which is another point.

5                 Many receiving facilities are also, due  
6       to either their treatment or disposal activities or  
7       unrelated, have very large generator activities as  
8       well and can talk to both sides of the issue. I quite  
9       strongly believe we could very quickly recruit several  
10      to say, look, this is going to come down the pike, you  
11      are going to be required to use it. If you want to  
12      have a say, if you want to make it work for you, play  
13      with it for a few months. Have a few of your people  
14      put in real data, real situations. Yes, continue to  
15      use the paper manifests, follow the established state  
16      and federal regulations, but take a few hours, a few  
17      minutes, put that date in here and let's see what  
18      happens.

19                My state's experience with this was the  
20      opposite. We purchased a very large software system  
21      from a vendor who labored on it here actually in  
22      Washington for a year, year-and-a-half. And then it  
23      was brought to the state, given to the users and said  
24      okay, here's the product. It goes live tomorrow not

1       only for testing with real data, but this is your  
2       system. Your old system will be going dark.

3                   And that was 18 months ago, and it's  
4       been 18 months of misery and pain. And not only for  
5       the state, but for the regulated community in our  
6       state. It's not the path to follow. Don't do what we  
7       did, please.

8                   The way to avoid that, I believe, is  
9       exactly what was suggested before. Put something out  
10      there, even if it doesn't look pretty. Even if it's  
11      just wire frames. Even if it's, you've got to type  
12      something in the box instead of a drop down.

13                  At least let's see how it's going to  
14      work not only for the users, but as every web  
15      developer and software developer would tell you,  
16      that's how you're going to find the hidden bugs that  
17      don't show up in fake data testing. Because we just  
18      can't anticipate all the curves that get thrown at it  
19      by real situations. Thank you.

20                  **MR. BARNES JOHNSON:** Thanks, Josh.

21      John is our next associate discussant.

22                  **MR. JOHN RIDGWAY:** Thank you.

1                   **MR. BARNES JOHNSON:** Did you ever know  
2 in life you'd be referred to as an associate  
3 discussant?

4                   **MR. JOHN RIDGWAY:** There's a lot about  
5 this that's new to me. It's an honor, I might add.  
6 We didn't get a lot of detail about the outreach  
7 efforts that EPA has gone through. I'm not an expert  
8 at knowing everything and I know you've worked very  
9 hard to get out to a whole bunch of different  
10 interested parties. Not that I'm asking for that now,  
11 but I'm not sure that my thoughts have been overlooked  
12 or not. With that in mind. The generators I think  
13 are perhaps going to need to be the biggest target  
14 audience, in some respects even more than the  
15 receiving facilities.

16                   Because as we've heard before, the  
17 receiving facilities understand this very well.  
18 They've been working hard at tracking this. Their  
19 livelihood depends on understanding how this is going  
20 to work and be implemented. The generators, on the  
21 other hand, are not going to think about this until  
22 they have to. In the ultimate goal of 100 percent  
23 electronic reporting, you know, I assume that means  
24 starting at the generator level. And I just can't

1        imagine any entity has the ability to get out to all  
2        of those.

3                        In the context of reaching to those  
4        small businesses, as well as others that haven't been  
5        tracking this up to this point, I think using the  
6        states has to be part of that outreach effort. I'm  
7        certainly interested in helping that happen in our  
8        state. But I would encourage -- again this gets back  
9        to EPA in the regions.

10                      The regions can be a resource there to  
11        help collaborate with the states to get out to all  
12        these generators. And help convince them that this is  
13        good for them, for record management, long term  
14        stability's of being able to reconcile quicker.

15                      And in particular, the notion that  
16        these generators are going to need to be actively  
17        looking for their electronic records after the records  
18        have been submitted by the receiving facilities,  
19        rather than passively wait for something to come in  
20        the mail that may just get filed or may get looked at  
21        to affirm that what they see in the database is what  
22        they sent out. I think that's another element that  
23        cannot be underdone.

24                      **MR. BARNES JOHNSON:**     Justin?



1                   **MR. JUSTIN WILSON:** Thank you. Justin  
2 Wilson. From my perspective, and this may be narrow,  
3 I just know my industry in this regard. Some of the  
4 TSDFs, that some of my generators send waste to, don't  
5 have a direct interaction. Because what we contract  
6 are total environmental hazardous waste service  
7 providers. Meaning, these are companies that are  
8 self-performing from everything from working with the  
9 TSDFs for waste profiling, for your waste streams,  
10 through manifesting, through packaging and labeling on  
11 behalf of our generators to meet the DOT requirements.

12                   Handling all the transportation,  
13 regardless of the number of transporters involved  
14 route, passing through 10 days, if needed. And then  
15 ultimately taking various waste streams to various  
16 TSDFs based on logistics and cost effectiveness.  
17 These particular companies that run the whole gamut of  
18 services, if the EPA came to me in this regard and  
19 said we want you to get into the system and test this,  
20 and all that -- or the state came to me -- I would  
21 actually request that one of my current contracted  
22 incumbents work with me and they represent me on my  
23 behalf.

1           So that I'm sure from A to Z of the  
2           entire process, we've got folks who provide us a  
3           service from behind the scenes that we don't directly  
4           deal with, make sure that the continuity is there from  
5           beginning to end. And with that, these companies that  
6           I'm familiar, they're already electronic, you know.  
7           They have built their own systems, some we've heard  
8           about today. They simply show up, identify waste,  
9           determine what profiles each waste would fall under,  
10          therefore what DOT shipping description aligns with  
11          that, package, label, sign the manifest on behalf.  
12          Because our associates are not packaging and labeling  
13          to meet DOT shipping requirements.

14                 And those companies are out there.  
15          They're simply all electronic. They're just printing  
16          a manifest to leave for us for our record retention  
17          for the current regulations. And then they're  
18          coordinating with those final TSDFs to mail us that  
19          final copy. And obviously, they've got to have their  
20          copy to meet DOT while in transit. To reduce the  
21          burden on the generators I think these companies could  
22          represent generators from the smallest to those like  
23          my company with many sites.

1                   Because they know what's unique and  
2 different about these generators and, I think would  
3 represent us all well. That's what I'd look for in  
4 engaging, is service providers that own TSDFs, own  
5 transpiration and just provide the full service of  
6 hazardous waste disposal. That's all I have.

7                   **MR. BARNES JOHNSON:** Thanks, Justin.  
8 Yes, Cynthia?

9                   **MS. CYNTHIA WALCZAK:** I think the  
10 generators and transporters that are not associated  
11 with TSDFs, either by ownership or partnership, are  
12 waiting for EPA to tell them how it affects them. I  
13 really think they are waiting for EPA to say this is  
14 how your business is going to change. And then they  
15 intend to raise their hand. I think they have an  
16 expectation that this will be in the form of a  
17 proposed rule, notice of advanced rulemaking. I don't  
18 think they think that all the regs are out there and  
19 they're not going to have any other opportunity to  
20 comment because you're doing the build.

21                   I think from EPA's perspective, they've  
22 already proposed the regs that allows for the build.  
23 But I do think from the generator's perspective  
24 they're waiting for EPA to tell them how this affects

1       them before they think it's their turn or time to have  
2       meaningful input. I think that's something EPA needs  
3       to address. They need to let the generator community,  
4       as well as the transporters not affiliated with TSDFs,  
5       know that now is the time. There's not going to be  
6       another time. We're not going to flush it out  
7       anymore. After we determine how you will do business  
8       different, it's going to be too late for you to have  
9       input.

10               **MS. MIMI GUERNICA:** I just have a  
11       clarifying question on that. What do you think is the  
12       best way to reach those generators?

13               **MS. CYNTHIA WALCZAK:** I primarily work  
14       with large corporations and they read the Federal  
15       Register. They follow the Listserv(s) and so forth.  
16       I don't know. CESQGs are a challenge. That's  
17       separate and aside from the fact that I think you're  
18       not even getting the Fortune 500 companies, are you?  
19       I mean, I don't think you've got meaningful generator  
20       input yet. Am I mistaken?

21               **MR. STEPHEN DONNELLY:** We have. I can  
22       respond to this right, Fred? This is Steve.

23               **MS. CYNTHIA WALCZAK:** I'll rephrase.  
24       Let me rephrase that. I think it's important to

1 consider CESQG, but that is not the nature of my  
2 comment. The nature of my comment really pertains to  
3 large industrial companies. I think even large  
4 sophisticated generators are waiting for EPA to tell  
5 them how this affects their business. And once they  
6 understand how it affects their business, they'll have  
7 an opinion. But I don't think they've heard that from  
8 EPA yet and I think they need to. By traditional  
9 channels. By your traditional means of communicating  
10 with large generators.

11 **MR. THOMAS BAKER:** I have a comment.  
12 Tom Baker. I think one of the things when you look at  
13 communication and getting people on board to know what  
14 the future lies, you know, from a cost perspective  
15 impact to them and then a systems impact.

16 You know, one of the challenges is that  
17 -- I personally have been involved with the e-Manifest  
18 process for longer than I want to care to admit, like  
19 Rich. People that have been following it have heard  
20 e-Manifest, e-Manifest, e-Manifest, and there hasn't  
21 been any markable deliverables for anybody to act on.

22 You got to be careful that when you're  
23 ready to deliver something you make a big deal about

1 it because people are kind of mute to the whole e-  
2 Manifest concept right now, that are not in this room.

3 I think you have to go out with a bang  
4 if you have something to deliver. You make sure it's  
5 clear that this is a finished product or a phase one  
6 of a product not just more stakeholder meetings and  
7 outreach. And then I'd also add, one of the  
8 challenges I foresee is the timing. With respect to  
9 the financial impact to the businesses, we're going to  
10 start charging manifest fees in 2018 conceivably.

11 We talked about mid-year rollout I  
12 think, early rollout. In my company we start the  
13 budgets in the summer of 2017 for 2018. And I had  
14 also heard that a final rule on the fee rule won't be  
15 coming out until December of 2017.

16 How am I going to be able to anticipate  
17 my cost to me and my customer base, which is  
18 significant. For example, in a company as large as  
19 the one I work for and others and a trade association  
20 that I'm part of, the transactions, the dollars moving  
21 back and forth between us and EPA and us and our  
22 customers are in the millions of dollars. We manage  
23 over 100,000 manifests a year.

1                   If you're talking, you know, a \$20  
2                   manifest fee I mean that's \$2 million, and it could be  
3                   higher than that. I think you need to make sure that  
4                   you understand the impact to businesses and how they  
5                   manage the financial impacts. I'm concerned that if a  
6                   fee rule comes out in December, that's what I think I  
7                   heard someone say, that understanding the impact to  
8                   people three or four months later is a big deal. And  
9                   can we move that timeframe up from December 2017 to  
10                  something earlier. I would encourage EPA to do that.  
11                  Or at least better pin down and refine that range of  
12                  costs that we're expecting to charge per manifest.

13                   Again, it's a mature industry, there's  
14                  a lot of transactions. Every manifest shipment gets  
15                  billed for to a client, to our customers. This is  
16                  going to be an add-on charge now and it needs to be  
17                  transparent. My opinion to what we're charging is  
18                  what EPA is going to be charging us. Those changes  
19                  don't happen instantaneously in industry.

20                   **MR. BARNES JOHNSON:** Rob?

21                   **MR. ROBERT KLOPP:** This is Rob Klopp.  
22                  I think all of these folks are very like-minded with  
23                  where I'm at. But I want to see if I can spin it just  
24                  a little bit differently. If we are the e-

1 Manifest.com startup company what we need is a  
2 marketing initiative. And the first thing you do when  
3 you market is figure out who your customers are and  
4 the economic value proposition to each of those  
5 customers. It's interesting, in the course of the  
6 presentations there was lots of sort of, I don't want  
7 to make it sound like it was disorganized, but I mean  
8 not concise.

9           One sentence would flop out that says,  
10 and there's a value to the generator of this and 15  
11 minutes later somebody says oh, and there's a value to  
12 somebody else of this. But there really wasn't, in  
13 the presentations, a concise story that said, here is  
14 the reasons why each of these constituents are going  
15 to buy my product. The value propositions weren't  
16 really clear and crisp and the economics weren't  
17 there. You get lots of discussion about, well what  
18 about the fees and how's that going to impact me?  
19 Because we get focused on the negative economic  
20 impacts because it's not really, really clear what the  
21 positive economic impacts are.

22           I think that the way to think about  
23 outreach is, who are the people you need to outreach  
24 to? I think you guys both asked the right questions



1 when you start asking what are the channels for me to  
2 go get to some of these people. Those are the kind of  
3 questions a marketing person would ask. But I think  
4 that you need to put your heads together and put  
5 yourself in each of those people's shoes and ask  
6 yourself what are the economic benefits to me of this  
7 thing.

8 If you ask that question from the  
9 perspective of each of those folks, I actually believe  
10 that the economic benefit -- I mean, you guys have  
11 convinced me the economic benefits are there, but the  
12 story is not really punchy and concise. You're having  
13 a little bit of a harder time winning people than I  
14 think that you need to have.

15 **MR. STEPHEN DONNELLY:** This is Steve.  
16 To continue with the corporate jargon we're going  
17 with, would you say, to clarify, we should be looking  
18 to developing elevator pitches for our different  
19 constituencies?

20 **MR. ROBERT KLOPP:** Yeah. And you can  
21 have a lobotomy and be a sales guy.

22 **MR. BARNES JOHNSON:** Yeah. Go ahead,  
23 Justin, please.

1                   **MR. JUSTIN WILSON:** I just want to add  
2 some clarity to Rob's statement that he just made.  
3 Representing a generator, I understood initially the  
4 benefits of the generator going to the e-Manifest  
5 system. But now that I've learned more about the  
6 hybrid initial rollout, I can no longer identify the  
7 benefits for a generator in this program.

8                   I concur with Rob. I think this user  
9 community needs to hear how we'll benefit. Because  
10 I've run the numbers and my fees go up over a million  
11 dollars a year with this program. I now have a  
12 generator copy of the manifest I still must retain.

13                   And from what I understand, my  
14 perspective from state and county inspectors is that  
15 they're going to want to know how did I validate that  
16 the waste ended up where it was intended to go. So  
17 now I feel like I may be adding some burden of having  
18 to prove that I've logged on to the system to see  
19 where I've printed something from the system to prove  
20 that I know the waste ultimately ended up in the  
21 proper grave. I no longer am eliminating the paper  
22 record retention. It's actually more cumbersome as I  
23 understand it today if we have to keep that generator  
24 copy.

1 I like Joshua's understanding of the  
2 regulations that we don't have to keep it, but that is  
3 not what the EPA stated today. Anyway I've probably  
4 rattled on too long. Thank you.

5 **MR. BARNES JOHNSON:** Thanks, Justin.  
6 Joshua?

7 **MR. JOSHUA BURMAN:** Joshua Burman. I  
8 have two different clarifications, recommendations to  
9 EPA, building off two different other discussants  
10 points. Mr. Baker here stated my point that I tried  
11 to make earlier, I think even better and brought up  
12 something that I did not point out to EPA.

13 I think there may be a perception by  
14 some of the EPA staff here that they may be feeling a  
15 little beat up about their outreach efforts. That  
16 either some members of the board or some of the public  
17 are saying you're not doing good enough, you haven't  
18 done good enough and let's hit you over the head a few  
19 more times.

20 I can say from my level that the  
21 perception -- and I underline it's a perception,  
22 reality is irrelevant, everything functions on  
23 perceptions. The perception to this point has been  
24 that the bulk, if not all of the development of the e-

1 Manifest system and the what I'm hearing over the past  
2 two days great work that's been done so far, has been  
3 viewed or appeared to be primarily software wonks and  
4 really intelligent, capable geeky types talking about  
5 things that I don't understand the terminology.

6 And I think if we, meaning EPA, the  
7 members of the board, the members of the states and  
8 the regulated community that's represented here today  
9 can have something to carry back to, not only the  
10 regulated community, but the rest of the country  
11 saying this is real stuff. Let's play with some real  
12 stuff.

13 Then the line staff, both at the  
14 regulator level and on the generator and receiving  
15 facility side, can start to view it as real. I think  
16 that will also address some of the issues that Ms.  
17 Walczak raised, which is that there's been a  
18 perception that this is coming some time, yeah 2018,  
19 but you know what? Back in 2014 they said 2015.

20 Well, here we are it's 2017, they're  
21 saying 2018. Yeah, yeah, yeah, yeah. Whatever. When  
22 we start to see things that look real, even if they're  
23 not ready for actual regulatory use, something to play  
24 with that makes it real, it gets people interested. If

1 I have a large generator or receiving facility that  
2 comes to me on a state level and says what do you know  
3 about e-Manifest? And I can throw something up on a  
4 PowerPoint screen or bring them into my office and say  
5 here look on this monitor.

6 This is kind of what it's going to look  
7 like. Do you want to play with this? Here's the  
8 password to get on to the site. Or here, register  
9 with EPA. I've got them.

10 That's reality versus, yes, EPA is  
11 holding a series of public comment meetings in Chicago  
12 and New York and they'll be formulating a plan.  
13 They're gone. It's not real. And I think that really  
14 speaks to the issue that the regulated community  
15 hasn't bought in. They don't see it as really  
16 happening or they're waiting for a chance to comment.

17 The comment periods on the regulations  
18 are actually either past or will be coming with one or  
19 two more rules. But the interaction of EPA and the  
20 regulated community and the states, I think, is where  
21 I think a lot of that has to be developed. Thank you  
22 to Mr. Baker for bringing that up. And I apologize,  
23 Mr. Klopp, you raised an excellent point and it's left

1 my head for the moment. We'll have to come back to  
2 that later.

3 **MR. BARNES JOHNSON:** Yeah, Rob?

4 **MR. ROBERT KLOPP:** Yeah. I just want  
5 to point out that what you probably recognized from  
6 Joshua's description is that in Agile, not only do you  
7 code in every two weeks, look at the code, but the  
8 code's there. The end users are looking at it.

9 One of the things we did in this  
10 project that I referred to earlier was, every two  
11 weeks when we did a demonstration of the code we left  
12 the code in a demonstration environment. And anybody  
13 could go look at it and do whatever they wanted. And  
14 people watched this thing grow two weeks at a time and  
15 they could go look at it anytime they wanted.

16 We didn't hold hearings and stuff like  
17 that. And that's part of Agile anyway, right. I  
18 think you guys, actually, probably are close to being  
19 at a point where you could actually do that anyway.  
20 Every two weeks let people come and pound on your  
21 system.

22 **MR. STEPHEN DONNELLY:** I do have a  
23 follow-up clarification question. This is Steven  
24 Donnelly. Let's talk more specifically brass tax

1 about rolling out something. We have an updated user  
2 interface and application that will be coming out.  
3 How do we get it to those non-IT, but very interested  
4 parties? And how do we get them to play with it, as  
5 you said, as a toy? And then specifically, how do we  
6 move forward to get feedback and engender that product  
7 ownership? Do we have conference calls, meetings?

8           Where do we do the brain dump so we can  
9 filter their input without pulling us away from the  
10 other myriad responsibilities? We want to engage our  
11 users and we want to do it productively. We want to  
12 get the generators involved and we want them to play  
13 around stuff and we want them to own this system. So  
14 yeah, we have an updated user interface coming out in  
15 a couple weeks. Walk us through the scenario where we  
16 get everybody really excited. Thank you.

17           **MR. JOSHUA BURMAN:** This is Joshua  
18 Burman. I am not a software person nor am I a web  
19 developer. Those of you with experience in that  
20 field, feel free to turn on your mics and shout me  
21 down as I go.

22           But speaking from a state user  
23 perspective, what we would like to see would be -- and  
24 I'm throwing this out as an example, there may be many

1 iterations that are different. Going to the EPA  
2 website, something that I, as a state staff, can  
3 easily point -- anybody that calls me or emails me --  
4 I can point them directly to a web site that doesn't  
5 have FR citations. It doesn't talk about the history  
6 of e-Manifest.

7 It says this is the e-Manifest  
8 iteration 6.2.5 as of today. It'll be changing in two  
9 weeks. Do you want to sign on to use it? And I have  
10 seen and participated in either email or comment boxes  
11 that people can make. You're on a page and it doesn't  
12 look right, click here to leave a comment. Or even if  
13 EPA was able to support it, I don't know if you would,  
14 live chat. I know that's a significant resource  
15 burden, or can be, depending on how many users sign on  
16 at a particular time.

17 And the other key to that would be not  
18 only the users inputting data but also having the data  
19 stored such that they can go back and have it function  
20 as it would. I can go back and as a generator, okay,  
21 last week in the last version I put in these three  
22 manifests or created these three manifests. Can I go  
23 back and pull those up? Are they still there? Do  
24 they look right? And that sort of bringing them in



1 this is what it looks like. And yes, you can put  
2 draft, temporary or not live, for testing purposes  
3 only, whatever, all over it.

4 Yes, there's going to be one or two  
5 users that are still confused and say, I created a  
6 manifest and now my state inspector came and said that  
7 he's citing me for offering hazardous waste for  
8 transport without a manifest. It's going to happen,  
9 but those are pretty rare. And typically, the  
10 regulatory staff and deal with those on a case by case  
11 basis. That happens every time one of these things is  
12 rolled out. But making it look and act as much as  
13 possible like the real thing. Now the whole CROMERR  
14 sign in, that also has to be looked at.

15 I suggest for the testing purposes, a  
16 simple user sign in. Who are you, who do you  
17 represent would be better. Don't scare people off the  
18 very first time. These are suggestions. Again, I am  
19 not a software developer, but this is what I have seen  
20 work in other situations.

21 **MR. BARNES JOHNSON:** So we'll go to  
22 John and then to Rob.

23 **MR. JOHN RIDGWAY:** A couple thoughts.  
24 This makes me think of usability testing that we do

1 and I assume is common. Where like we heard earlier,  
2 someone who is green to a new system, is just put in  
3 the room and they get to start using it. That in  
4 itself is important. How to capture the reaction and  
5 the comments, of course, is really what you're looking  
6 for so you can build a better tool.

7 One thought is in the prototype testing  
8 that would be available to the users -- I don't know  
9 how easy this is I'm not a code writer either. But  
10 similar to the way you collected comments on the fee  
11 rule, which is maybe for each field or step you have a  
12 comment box. They try putting their EPA ID number in  
13 and the system doesn't accept it, you would have a  
14 comment box right there that says this didn't work for  
15 me or anything else. That way you can focus your  
16 comments to the specific data element you're trying to  
17 get or make sure you don't get.

18 And then another thought here, this is  
19 brainstorming. But the relationship between the  
20 generator and the receiving facility is where so much  
21 of this has got to work. Maybe there is a way for the  
22 testing to happen and be observed by the receiving  
23 facility with the generator, so that they, too, can  
24 understand the question between the generator and the

1 receiving facility. Which is going to have a key role  
2 in the success in this including data integrity and/or  
3 confusion around what the generator thinks they need  
4 to put in versus what the TSDf understands they really  
5 need to have. There may be a role there.

6 Because the 400 receiving facilities  
7 around the country are going to be in a key position  
8 to understand the problems and how they're going to  
9 deal with them as much as the EPA and the code  
10 writers. Maybe there's a role there, and you might  
11 capture more generators through that already  
12 established relationship with their service provider  
13 in the receiving facility.

14 **MR. BARNES JOHNSON:** Rob?

15 **MR. ROBERT KLOPP:** This is Rob Klopp.  
16 I think there's sort of two parts to the question he  
17 asked. The part we're talking about now, I think,  
18 these are all really spot on.

19 What I would say is think about, you  
20 know, if you go look at the things that you see on the  
21 internet that software companies do in order to market  
22 their software, those are the kinds of things you need  
23 to do. You need to create YouTube videos of people  
24 doing certain things with your new release and make it

1 really easy for someone to go just watch a YouTube  
2 video.

3 I think one of the really interesting  
4 things I hadn't thought about until I was listening to  
5 these guys was, you know, if you could create a  
6 YouTube video that was from the perspective of a  
7 receiver and a separate one that's from the  
8 perspective of a transport. Again, to some extent  
9 we're now talking about marketing, right. It's okay  
10 to foam it up a little bit in order to give people the  
11 best possible experience. I love the idea about  
12 having comments if someone went into the website.  
13 Because now people feel some sense of ownership where  
14 they're actually going in and creating some ideas.

15 The ideas could become a user story.  
16 You could actually send them a note saying we love  
17 your idea, we turned it into a user story. And now  
18 again you start to get buy-in.

19 I think the second part of the question  
20 is about if you built all these things how do you get  
21 people to come to them and view them? And I think  
22 marketing -- unfortunately for marketing people, it's  
23 not the type of thing that there's like an answer that  
24 says if you do this within the next three weeks when

1 you roll this version out, you're going to get 10,000  
2 people that are going to start looking at these demos.

3 I think the best you can do is figure  
4 out what your strategy is going to be for marketing  
5 and just start working to get the word out. It will  
6 take you a year until you get to the point where  
7 there's thousands of people who will be looking for  
8 the next one month release things to see what the  
9 YouTube thing and see how this thing is improving.  
10 But if you start building these things and start the  
11 process of getting the word out, it will just build  
12 slowly and a little bit organically.

13 A year from now you'll be where you  
14 want to be as far as having an array of people that  
15 are kind of waiting for the next thing to come out so  
16 that they can see what's going on and make their  
17 comments.

18 **MR. STEPHEN DONNELLY:** Okay. Thank  
19 you. This is Steve Donnelly again. I just want to  
20 say, we do have our user stories on GitHub and we'll  
21 be publishing commits there as we have in the past. I  
22 think the big question we're asking, that has really  
23 come up the last day and a half through the advisory  
24 board is, there are a lot of generators out there and

1 we need to send up the bat signal and really get their  
2 attention. Just sort of moving back to the point,  
3 what are a couple of good strategies we could have to  
4 get to the generators?

5 Like, MiMi brought up webinars. What's  
6 a good non-IT way to what you're suggesting, John? To  
7 get some user buy-in that has eluded us in the past?

8 **MR. JOSHUA BURMAN:** Joshua Burman. I'm  
9 going to take right off of Mr. Klopp. As he was  
10 talking and as you've been talking, I'm envisioning --  
11 we as a state have a vested interest in making this  
12 work. We've not only devoted time in our staff, but  
13 we have put a lot of our credibility on with  
14 generators. Saying yep, this is coming down, be ready  
15 for it. And we'd be very, I'd say excited, to do some  
16 marketing. Primarily, for us it would be web-based  
17 because, as a state, we're very limited in funding.

18 But our regulated community comes to  
19 our website. We are their primary contact. Many  
20 generators of the small quantity and large quantity  
21 generator, I will not talk about CESQGs because  
22 there's such a wide range of sophistication and  
23 interaction we have with them. Some of them we talk  
24 to every 10 years. Some of them call me literally on

1 the telephone on a weekly basis. It's very widely  
2 varying. But especially the small quantity generators  
3 and large quantity generators, we have very consistent  
4 periodic interaction with them, initiated from both  
5 sides. They come to our website often.

6 And for us, as a state, it's very  
7 simple, it's very cheap to throw a big banner on our  
8 website saying, "New, try the EPA's e-Manifest system,  
9 click on this link." And you're going to get click  
10 throughs. You are going to get at least generators  
11 that go look, they may not stay and play, but they're  
12 at least going to go look.

13 I absolutely love the idea of YouTube  
14 videos and other types of media like that.  
15 Minnesota's experience for our new enterprise system,  
16 which we fielded about 18 months ago now, specifically  
17 one of the things that it does is for EPA ID number  
18 notifications, which EPA also rolled out an online  
19 system recently for such.

20 We put together, I kid you not, a 15-  
21 page set of instructions for how to use it step by  
22 step. I wrote it. It was one of the most boring  
23 documents I've written in a long time. And it's not  
24 very effective because we still get calls on a daily

1 basis, well I clicked this and my screen doesn't look  
2 exactly like that. Yes, it does. Oh, okay. And it's  
3 not fun. Nobody likes to pull up a 15-page PDF  
4 documents say, this looks like something I really want  
5 to do.

6 But pulling up a 30 second video with  
7 some humor in it that's pretty easy to do that has to  
8 be factual but can also play with a little bit. Look  
9 how easy this is to do. Click. See, you've just  
10 entered your manifest. Yes, it's fake, yes, it's  
11 infomercial, but it works. There's a reason  
12 infomercials sound like that. It's because they work.

13 Again, I can't guarantee you all the  
14 generators in Minnesota, but I can bet you're going to  
15 have a few click through just from our state. Again,  
16 I'm speaking from a state perspective. I can't speak  
17 for the generator and receiving facility and  
18 transporter perspective. But that's one way we'd love  
19 to do it.

20 But we need something to push people  
21 to. Minnesota cannot sell e-Manifest. One, because  
22 we're not building it. Two, because we don't know how  
23 it's going to look. And three, we have to be very



1 careful in what marketing we do because we're not sure  
2 exactly where you are and what's going to happen.

3 But we want to push people to you. And  
4 if you can say, hey, this is where we are. Yeah,  
5 we're aiming for June 2018, but you know what it's  
6 going to be August. Bear with us. I think that would  
7 go a long way.

8 **MS. MIMI GUERNICA:** I just have a  
9 clarifying question. These are great ideas that we're  
10 getting from all of you. We do have limitations in  
11 terms of resources and staff time so we kind of have  
12 to pick and choose in terms of what's most effective.  
13 In the past we have held several webinars, there's  
14 been a lot of attendance. I would like to get some  
15 feedback as to whether or not webinars are even  
16 worthwhile or whether we should be devoting our time  
17 and energy to some of these other outreach tools that  
18 you've mentioned.

19 **MR. THOMAS BAKER:** Tom Baker. I'll  
20 comment on that question specifically about webinars.  
21 I think they do serve a purpose and they are good at  
22 getting people understanding where the project is at  
23 and understanding the timeline for implementation of a  
24 project. But probably not the best tool for getting a

1 user engaged using a new tool. For example, we've  
2 been involved in some of the more recent webinars with  
3 the import/export manifest process changes.

4 While they're good to communicate a  
5 process in general terms and implementation  
6 challenges, the one I attended wasn't real helpful for  
7 someone to actually go on and learn how to use a new  
8 database without actually doing it themselves. I  
9 think webinars might have a good a good place, but  
10 that would just be one strategy to address and engage  
11 the users.

12 **MR. JOSHUA BURMAN:** Joshua Burman. I  
13 will take right off of that and extend it and say I  
14 would fully support webinars as a promulgation or  
15 publication tool. They are inherently one way and  
16 almost every attempt that I've seen both on the  
17 federal and state level to have a webinar that's  
18 interactive with more than a literal handful of  
19 attendees is chaos. Very little productive is  
20 actually done.

21 And they're very well suited for  
22 explaining new regulations, for weighing the history  
23 of those regulations, for discussing what has been  
24 decided. They're very bad for gaining feedback and

1 for actual teaching. Because as soon as somebody has  
2 a question, now it's become interactive. And either  
3 everybody has to -- literally hundreds for instance, I  
4 believe, are tuned in today or were turned in today  
5 Hundreds of people have to wait while somebody else  
6 asks a question that many of them say, Oh my God, I  
7 already know that.

8 Or even if the question is very well  
9 phrased and applies to everybody, typically it's not  
10 going to be explained the way that everybody needs to  
11 hear it. Thank you.

12 **MR. BARNES JOHNSON:** Okay. I think we  
13 had Cindy and John and then Rob. Okay.

14 **MS. CYNTHIA WALCZAK:** This will just  
15 take a second. I have a dissenting view on webinars.  
16 I find them very helpful in terms of the generator  
17 improvement rules and the pharmaceutical rules. I  
18 found the webinars very helpful. I encourage that.

19 Stephen, your question seemed to imply  
20 that you think you're not reaching people. And  
21 actually, I don't know anybody who hasn't heard of e-  
22 Manifest. I think you're reaching people. But people  
23 are just waiting to understand how it affects them.  
24 But that's redundant, I said that before. Thank you.

1                   **MR. JOHN RIDGWAY:** John Ridgway here.  
2                   Again, on this regional theme. Perhaps what you could  
3                   do is to get the prototypes literally into the  
4                   regional offices where they can provide a room where  
5                   people can go in and try it. Understanding that is  
6                   not convenient for many, many generators just due to  
7                   distance from their regional office. But I would  
8                   guess even if you had 10 or 20 people in each region  
9                   times the 10 regions you would get a lot of good input  
10                  in your own facilities. And the regional people would  
11                  have to also see this and understand it.

12                  And the states would certainly be there  
13                  as well to see it and play with it and try it. Again,  
14                  that's a brainstorm.

15                  **MR. JOSHUA BURMAN:** Joshua Burman. I'd  
16                  like to respond to that. I apologize. Who did I just  
17                  talk over?

18                  **MR. BARNES JOHNSON:** We have Rob and  
19                  then Raj and then we'll get you in, Josh.

20                  **MR. JOSHUA BURMAN:** I will always  
21                  listen to Mr. Klopp and Mr. Paul.

22                  **MR. ROBERT KLOPP:** Thanks. A couple  
23                  things. One is, you know, I think webinars or  
24                  infomercials are a useful thing if you're going to go

1 tell a story. I guess what I was really pushing for  
2 when I mentioned YouTube is I really think you need  
3 tutorials that are viewed from these people's  
4 perspective that help them see how to use this thing.  
5 So maybe you do both, right.

6 The second thing I thought was really  
7 interesting was I sort of used this e-Manifest.com  
8 startup company analogy. And I think that what we've  
9 just heard is the beginnings of some folks who are  
10 volunteering not to be marketing but to be sales.

11 And your startup company needs a sales  
12 force as well. And if you could get states or there  
13 are some other organizations that talk to generators  
14 or receivers or whatever it is. You could go find  
15 ways to use those people to be salesmen on your  
16 behalf. I think that that's useful in so far as you  
17 can find that.

18 And then the last thing is, you know, I  
19 know that you guys have a small staff and that all of  
20 these things that we're talking about takes bandwidth.  
21 It's always a scary thing to think that you might  
22 actually have to pull a developer away from doing  
23 development in order to go build some of these things.  
24 But I think if you think about this as a startup

1 company the return on investment is gigantic, right.  
2 I mean the kinds of fees that you're going to generate  
3 when you get this thing out, those are the fees that  
4 are going to allow you to actually grow the staff if  
5 you can get this minimum viable product out sooner.  
6 Because you force it to be every more minimal and you  
7 can get more people to buy into it and start  
8 generating fees, then all of the sudden you get the  
9 money potentially to double the staff. Then it all  
10 becomes easier.

11 The way to think about sales and  
12 marketing is, if I invested the time and I get four  
13 times more people to sign up faster, do I generate the  
14 fees that make that investment worthwhile? If it  
15 doesn't look like it is, if you think that you're  
16 better off spending your resources doing development  
17 because the ROI's not there from sales and marketing,  
18 okay, you need to make that decision in your little  
19 startup company.

20 But I suspect that more investment in  
21 sales and marketing is probably going to get you where  
22 you want to go better than continued investment  
23 development.

24 **MR. BARNES JOHNSON:** Thanks, Rob. Raj?

1                   **MR. RAJ PAUL:** Some of the thoughts on  
2                   minimum viable product and all that, it all depends  
3                   how you're going to define your spend cycles and your  
4                   user stories and have your layout. I really don't  
5                   know where you are exactly in your software  
6                   development lifecycle, but purely based on  
7                   observations, I mean, this relays a screen layout,  
8                   which Scott laid out. I mean, of course, I don't have  
9                   the domain knowledge as the rest of the panel members  
10                  have here. I think it will be worthwhile to take a  
11                  step back and then do user storyboarding, purely  
12                  focused on UI/UX.

13                                 And I think it's worth your time to go  
14                   and sit with the generator, look at the day in the  
15                   life of a generator, a day in the life of a  
16                   transporter, right. What would they do if you give  
17                   them something in their hands?

18                                 And you can purely focus on the UI/UX  
19                   flows to see if they can understand the current UI/UX  
20                   flows. Because if they don't understand that you're  
21                   going to have later challenges. And I think your  
22                   system is probably implemented in a nice way that you  
23                   could change the flows if done that right in the back  
24                   end. I think that is really worthwhile.

1 Down the stream when the system is  
2 ready for MVPR, let's take even for beta testing. I  
3 think it's worthwhile taking a tablet with a cellular  
4 connection, going to an office like Minnesota for  
5 example, that are eager to test the system, give it to  
6 them and sit with them and see how they can basically  
7 use the system. Webinar, YouTube is all great. We  
8 have to do it. I think that goes without asking.

9 But in this case, based on my  
10 understanding, you have a system with requirements  
11 built ages back and you're replacing it with modern  
12 technology. But of course, the business process  
13 reengineering I don't think was done because it wasn't  
14 mandated to be done. Nothing like sitting with a user  
15 and then letting them play with it and then observing  
16 it, and printing out the e-Manifest at the end of it  
17 and getting the conference out of them. I think that  
18 you'll learn quite a bit, I think.

19 **MR. JOSHUA BURMAN:** This is Joshua  
20 Burman. I'm happy I'm not interrupting anyone this  
21 time. I apologize again to Mr. Paul and Mr. Klopp.  
22 Before I go further, I just like to say the members of  
23 EPA that assembled this Board I'd like to commend them  
24 for including several staff that when I showed up at



1 the meeting yesterday morning at 8:00, I internally  
2 thought, oh, that's interesting. I wonder what  
3 expertise is going to be represented there. But every  
4 time one of my fellow Board members speaks, I'm more  
5 happy that they're part of the Board.

6 Thank you, Mr. Paul, you speak a  
7 language that I don't. And it's wonderful to have  
8 your input. Thank you.

9 Mr. Ridgway reminded me of the point I  
10 wanted to make before and I apologize. That of  
11 extending on looking at the end agreements as a way  
12 for EPA to encourage states that are not represented  
13 at this table that may not be part of your current  
14 developer group or workgroup to engage. Minnesota as  
15 a state has had success recently negotiating with the  
16 regional office. And again, getting the regions  
17 involved, so far this appears to be primarily a  
18 headquarters initiative. Getting those regional staff  
19 at least up to speed and interested, I think, would  
20 pay dividends to the EPA staff.

21 Minnesota has had success recently in  
22 negotiating initiatives similar to this in the TSCA  
23 program, where actual inspection and compliance and  
24 enforcement goals, which are part of grant programs,

1 were substituted for sort of informal or soft outreach  
2 programs; to gather similar data that would be  
3 gathered by the inspections, but through an informal  
4 process. That was not web-based, but many other  
5 aspects are very similar to this. The regional office  
6 eventually agreed. It was not their idea, but I think  
7 the state has gotten more efficient data collection  
8 because of that.

9 I think it could work the other way  
10 that if regional offices proposed it to some states,  
11 that there may be states who were interested who  
12 hadn't even thought about doing any sort of e-Manifest  
13 work until EPA rolled out an official requirement for  
14 them to do so. That may pay dividends working through  
15 the regional offices to try to approach some of those  
16 states that have not interacted with you before.

17 **MR. BARNES JOHNSON:** Tom?

18 **MR. THOMAS BAKER:** I'm thinking you're  
19 going to say we're going to break right now, right?

20 **MR. BARNES JOHNSON:** No. Here's what's  
21 going through my mind. You read my mind. Here's  
22 what's going through my mind. I just want to wrap up  
23 this aspect of the conversation. Then I want to give  
24 Josh a few minutes to go through some of his key

1 points on some of the other charge questions. Because  
2 we do want to get them on the record for the meeting.  
3 Then we'll take a break. Okay? I'm hoping we can get  
4 to a break by about 3:15.

5 **MR. THOMAS BAKER:** So I just want to  
6 point out something I think is important. We talk  
7 about outreach and e-Manifest as this one item. The  
8 users view e-Manifest much differently depending upon  
9 how they get their waste from them being the generator  
10 to the TSDF. We really have four processes that are  
11 impacted long term with manifesting hazardous waste  
12 the way I see it.

13 You have the person that's going to do  
14 a paper manifest like they do today; send it to the  
15 TSDF as they do today. It gets to the TSDF, they sign  
16 it and send the paper manifest to EPA and it's  
17 processed as paper by EPA.

18 Higher fees to that generator, that  
19 user is going to pay a higher fee and that process can  
20 continue. The other option really is this hybrid  
21 approach, which I think has a lot of merits; which  
22 will be the same paper process up to the point of the  
23 TSDF. It will become electronic, get the data to EPA

1 electronically in a more efficient manner and they'll  
2 pay a lower fee as the manifest user.

3 You need to make you speak to the  
4 generators in understanding what their impact is going  
5 to be. And they're going to be different based on how  
6 they use the manifest.

7 Then the more pure full e-Manifest  
8 process is, starting out with someone actually data  
9 entering manifest information into a website or some  
10 kind of a smart form that's going to create an  
11 electronic document that's going to be an e-Manifest  
12 transaction all the way through. And it conceivably  
13 would be a lower cost to them from the fee  
14 perspective. Keep in mind that that's not going to  
15 be, in my opinion, the main method of getting manifest  
16 data into the system.

17 It's going to be the waste management  
18 companies that are going to bulk transfer data that  
19 they already have in their systems to the waste  
20 profiles and their project planning with their  
21 customers, the generators. They're going to transfer  
22 manifest data, this prepopulated information, into an  
23 e-Manifest database that then the generator is going  
24 to actually pull that up and certify it and initiate

1 the shipment. It's complicated. It's not just one e-  
2 Manifest that we're talking about.

3 You've got many different types of  
4 users that have different interests in the process and  
5 the associated fees are going to be different. As we  
6 do outreach, keep that in mind, and make sure that  
7 we're targeting the right people and asking the right  
8 questions and using the right terminology. Because  
9 it's going to be confusing for some folks because it's  
10 not just one e-Manifest.

11 **MR. BARNES JOHNSON:** Yes, John? You  
12 get the final word on this discussion.

13 **MR. JOHN RIDGWAY:** Wow. Thanks so  
14 much. It's my understanding that there are only two  
15 states that are not authorized for RCRA, Alaska being  
16 one in my region 10 and I think it's Iowa. And I  
17 would think that those are two primary candidate  
18 regions to tap into because they're going to have to  
19 practice what's being preached here. That might be a  
20 good start.

21 **MR. BARNES JOHNSON:** All right. At  
22 this point, let's give Mr. Burman the floor to give us  
23 some of his thoughts on any of the remaining charge  
24 questions that we're going to deal with today or

1 tomorrow. That's an awful lot, I know. But if you  
2 could just share the high points. Some of the really  
3 fundamental things that you'd like to interject in  
4 each of those so that we have them on the record we'd  
5 appreciate it. Thank you.

6 **MR. JOSHUA BURMAN:** Thank you, Mr.  
7 Johnson. Thank you, Dr. Jenkins. Before I go further  
8 I'd just like to apologize to the remainder of the  
9 board, the EPA staff, members of the public that are  
10 here. Due to an unexpected personal situation, I do  
11 have to leave today and I will not be able to attend  
12 tomorrow's meeting. However, I will participate to  
13 the maximum extent possible in reviewing, revising,  
14 and finalizing the minutes of this meeting that will  
15 constitute the board's report.

16 Bearing in mind that I believe  
17 everyone's waiting for a break as soon as I'm done  
18 talking, I will briefly and as quickly as I can run  
19 through the comments that I have on the remaining  
20 charge questions to the board both for today and  
21 tomorrow. On charge question 2A discussing the  
22 prescriptive detail necessary to prescribe a  
23 structured and orderly process for executing data  
24 corrections.

1                   My first, and I believe my most  
2                   important recommendation, personally, to EPA would be  
3                   to separate the assumption of finality and the ability  
4                   to make corrections from the 90-day closure or non-  
5                   public designation of in-transit manifests and  
6                   manifests that have reached the receiving facility.  
7                   But the receiving facility is still either  
8                   manipulating the data or the data has already been up,  
9                   but the EPA in the interest of drawing a bright line  
10                  has set 90 days. I think EPA has conflated these two  
11                  ideas because it's convenient.

12                  We need at some point to draw the line  
13                  between public, non-public, between a manifest that  
14                  may still be in transit and a shipment that has been  
15                  completed. And EPA appears to be striving towards  
16                  this assumption of finality. And I believe partially  
17                  for convenience and partially, possibly from confusion  
18                  the two have been joined. They're really very  
19                  separate concepts and I believe it is destructive to  
20                  put them together. Manifest data, just like any  
21                  dataset, is always subject to correction and change.

22                  And attempting to draw a bright line  
23                  and say data before this line is suspect, data after  
24                  this line may be trusted is always going to fail.

1 Minnesota's experience is we find data two years later  
2 that oh, wow, this site has been using the wrong EPA  
3 ID number. This ID number actually belongs to their  
4 sister plant two blocks away on a noncontiguous  
5 property and therefore cannot be operated under one  
6 number. They've been doing this for two years. The  
7 fact that those manifests are more than 90 days old  
8 affects the fact that the wrong EPA ID number on them,  
9 not at all. And there can be other errors similar.

10 Yes, we would expect that most, but  
11 certainly in respect to the receiving facilities here  
12 in this room that have submitted public comments, not  
13 all actual waste information number of containers mass  
14 type will be finalized within 90 days or submitted  
15 within 90 days. But I don't believe it's appropriate  
16 to draw a bright line there. And I do believe the 90-  
17 day period is appropriate for a public, non-public  
18 division. I do understand and I do not dismiss the  
19 national security concerns that were raised by some of  
20 the public comments. I do believe those need to be  
21 reviewed.

22 But I still do believe the 90-day  
23 period is appropriate, but that it has no relation to



1 whether that data is error free or has been corrected  
2 or not. That is a separate issue.

3 And some EPA staff have expressed a  
4 concern that until that finality or line is crossed,  
5 that the data cannot be used. I think that's a false  
6 assumption. Data can always be used. There is always  
7 an assumption that any dataset, it may be used today  
8 with the knowledge that there may be incorrect data in  
9 there. And if it's changed then that calculation or  
10 report or whatever derivation was drawn from that data  
11 may need to be redone. That happens all the time both  
12 in government and private industry.

13 I think we need to be very careful  
14 about making assumptions, especially in regulations,  
15 about such things. Also in this charge question I  
16 raise something that's been raised by the state of  
17 Minnesota in its public comments multiple times. I  
18 think Mr. LaShier is probably going to be nodding his  
19 head or shaking his head in a few seconds, one of the  
20 two, because he's heard this before.

21 In my opinion, EPA has not, to date,  
22 addressed some very basic decisions about how it's  
23 going to address situations which will cause  
24 corrections or will cause the need for corrections.

1 Or may, if not handled correctly, specifically among  
2 those the issue of nonstandard EPA ID numbers and  
3 sites which have not had EPA numbers assigned. It's  
4 very clear both in the U.S. DOT's hazardous materials  
5 regulations, in their interpretations and in EPA's  
6 statements so far, that waste sitting in a site will  
7 not be held up for lack of an administrative issue.  
8 As long as there's not a safety issue, that waste  
9 should be transported to get it to the most safe place  
10 possible.

11 The loading dock of ABC Company -- I  
12 apologize if any ABC Company representatives are in  
13 the room -- is perhaps not as good a place as the  
14 receiving dock of a designated receiving facility.  
15 The waste is going to be shipped. That means that EPA  
16 is going to receive paper manifests with CESQG on  
17 them, with nonstandard IDs on them from states. There  
18 is a state that, for instance, assigns ID numbers  
19 based on a telephone number of a site. The telephone  
20 number can change. The site may move and keep the  
21 same telephone number. This is going to cause issues.

22 Additionally, under other federal  
23 regulations such as TSCA, there are nonstandard ID  
24 numbers in those regulations. Under TSCA, 40 CFR Part

1 761 is an ID number for many sites. And the issue of  
2 having literally tens of thousands of sites with the  
3 same primary ID is an issue that the EPA has to  
4 address before any system goes live. And I think EPA  
5 needs to clearly identify how it's going to address  
6 that.

7 Minnesota as a state did, two years  
8 ago, do an extremely painful process of reassigning  
9 and reissuing standard ID number formats to all  
10 regulated sites in the state. This took about nine  
11 months of a lot of manual work. And I am not trying  
12 to be arrogant or toot Minnesota's horn, but we're  
13 further down the road and have more awareness of a lot  
14 of our smaller generators than many other states do.  
15 And certainly than EPA regional offices have of Iowa  
16 and Alaska generators. They simply don't track that  
17 information.

18 We believe that if other states are  
19 going to be asked -- as EPA has suggested in previous  
20 public meetings -- that EPA will ask the states to  
21 address this issue, that that ball needs to start  
22 rolling right now. Because otherwise, there will not  
23 be time to do it. I know I'm throwing a lot at you.  
24 You probably have clarification questions or defenses

1 even possibly. I'm going to keep going in the  
2 interest of time so everybody can take a break.  
3 Again, I believe this is a very basic issue that must  
4 be addressed before this charge question can  
5 adequately be responded to by the board.

6 Moving on to Charge Question 2B. How  
7 can the Board advise on how the process, notices to  
8 parties, and response deadlines should be structured  
9 if EPA determines to eliminate the 90-day window for  
10 finalizing all data?

11 Again, coming back to the previous  
12 point, I do not believe it appropriate that the 90-day  
13 window is for finalizing data corrections. That is a  
14 bright line for determining when information should be  
15 submitted such that it could be made public or  
16 available as a non-in-transit shipment.

17 A suggestion, and this is not coming  
18 from the Board, it's coming from me personally, would  
19 be at least during the transition period the EPA may  
20 consider keeping paper manifests as they are now.  
21 Corrections made to those paper manifests are made  
22 through a paper letter process and the corrected data  
23 is only entered after it's entered. Then they would  
24 have to be electronic corrections.

1 e-Manifest, I personally believe that  
2 it's been adequately addressed, in the proposed  
3 regulations, that any change by any handler is  
4 automatically notified to all the other registered  
5 handlers. The issue, of course, comes up during the  
6 hybrid process where many of the handlers will be  
7 assumed to not be registered users of the system. And  
8 therefore, would not get notifications of any changes.

9 Charge Question 2C:

10 Does the Board agree with EPA's  
11 conclusion that only one party in the receiving  
12 facilities who submit final manifests to the system  
13 should have the responsibility to access the system to  
14 enter or submit data corrections?"

15 My personal response is absolutely  
16 not. There are many data correction issues that  
17 cannot be made by the receiving facilities and as the  
18 primary example, EPA ID issues. I say this with no  
19 negative statement towards any receiving facility  
20 representatives in the room or who are listening on  
21 this call. But at least a few, if not many, of the  
22 EPA ID number issues that I encounter on a weekly  
23 basis, are from the database of the receiving

1 facilities who have prepared a manifest for or on  
2 behalf of their generator.

3 And it's because generator calls up and  
4 say, hi, I'm John Smith. I've got some waste that  
5 needs to be picked up. The person on the other end of  
6 the phone at the receiving facility or at the waste  
7 broker says, what's your phone number? What's your  
8 name? What's your facility name? Whatever they use  
9 to identify their customer, they type that in.  
10 Whatever's in their database, that's what they print.

11 Many receiving facilities do not -- and  
12 again, this is no aspersion on them -- but do not do  
13 any data verification and say, has your business been  
14 sold in the last year or since the last time we dealt  
15 with you? Has your address been updated by the E911  
16 system or by a street change in your municipality?  
17 All these things happen.

18 Do you want us to pick up from another  
19 loading dock on another street with a different street  
20 address? All these things happen. They print off  
21 what's in their database. And it's only afterwards on  
22 review that either a state regulator or even sometimes  
23 a generator says, this manifest says John's Auto  
24 Detailing. It's actually owned by Bill now and the

1 name is Bill's Auto Detailing. It's a different  
2 owner, different corporate entity; it's not the same  
3 generator.

4 EPA ID number cannot be used until it's  
5 been reassigned. The receiving facility will have no  
6 knowledge of this unless they're held responsible for  
7 proactively verifying all this information. Which I  
8 think would be a large area of concern to receiving  
9 facilities, to be suddenly subject to regulatory  
10 liability for data verification that's not their data,  
11 that is really somebody else's data. I cannot speak  
12 for any receiving facilities, but I believe that they  
13 would be concerned about that and would push back  
14 against that assumption.

15 I would recommend that EPA return to  
16 one of its original proposals which was that any  
17 handler in the waste management chain could make  
18 corrections to data that is its own responsibility, as  
19 well as any regulator that's associated. Meaning  
20 county, state, or federal depending on what state  
21 you're in. Some counties have delegated authority.  
22 County, state, or federal regulator could make those  
23 changes as well.

1 I strongly would disagree with any  
2 scenario where a state or federal regulator had to  
3 request that a receiving facility makes changes to  
4 manifest data. That would be inappropriate. Moving  
5 on to charge question 3A. What level of service is  
6 needed for day 1? I personally believe a high level  
7 of IT support is needed for day one.

8 Again, Minnesota's experience was all  
9 the IT support went into software development. And  
10 there was very limited available on day one, which  
11 caused the system to crash and not work and turned off  
12 a lot of users. And we're still trying to get some of  
13 those users to try again 18 months later. Both for  
14 direct user assistance and also on a higher level for  
15 IT services, one of the key aspects of the e-Manifest  
16 system will be mass upload of data. That is going to  
17 be IT staff doing that, probably at the receiving  
18 facility level.

19 And those IT staff are going to be  
20 speaking in terms that user level help desk staff or  
21 IT support may not understand. Honestly, I receive a  
22 lot of help desk calls for Minnesota's system. But if  
23 you start talking to me about API and XML standards, I  
24 have no idea what you're talking about. And I'll have



1 to refer you to A level of support, which Minnesota  
2 currently doesn't really have, which causes problems.

3 Charge question 3B. What level of  
4 personal versus automated support? Unfortunately, I'm  
5 old school. I push zero when I'm talking to voicemail  
6 and I zero out to somebody that I can interact with.

7 I believe at least in the hazardous waste world  
8 there's a lot of older, experienced staff that want to  
9 talk to a person. Just my personal viewpoint. Charge  
10 question 3C. For states/programs with similar  
11 applications, best practices. Minnesota's experience  
12 is that a background in the use of the data, so in  
13 this instance, background in actual manifest data is  
14 very helpful, to not only have knowledge on the  
15 software side.

16 Because that allows the help desk or  
17 other user support to understand what the user is  
18 trying to do, not just what the software is trying to  
19 do. They're saying, I'm trying to submit a second  
20 transporter. A software person may not understand,  
21 why do you need a second transporter. Or I'm trying  
22 to change the second transporter that's already in  
23 there. Oh, it's because the semi broke down on the

1 side of the road and you need to switch out  
2 transporters. Okay. We know that happens.

3 That could be done either one of two  
4 ways. Either software background staff are given some  
5 education in manifest or the other way around.  
6 Probably a mix of both. Next, customer support staff  
7 -- I going to use that instead of help desk staff --  
8 should be able to directly flag software bugs to  
9 software developers. That's a key point to not have  
10 to go through too many steps to identify bugs, get  
11 them flagged so that they can be worked on at a  
12 software level. We're going to have bugs. The e-  
13 Manifest system is going to have software bugs. Every  
14 software system does.

15 Finally, those support staff should  
16 have the ability and authorization, through the  
17 system, to make minor -- and what minor means is going  
18 to be dependent on a case by case situation -- but  
19 minor direct data corrections. Such that somebody  
20 calls up and says all I want to do is fix a typo in my  
21 EPA ID number. If they can go in and make that  
22 correction, that's a satisfied customer. They may not  
23 need three hours of how to go through the system to  
24 make that change. If it's a small generator, they may

1       only have to make that change once ever in their life  
2       and not have to learn how to do that.

3                       Minnesota has unfortunately stumbled on  
4       that problem. We currently require everybody to make  
5       all changes through the online system. Which means  
6       yes, we are having people learn for about an hour,  
7       hour and-a-half how to input a correction that would  
8       literally take our staff 30 seconds directly. But our  
9       management made the decision that all changes have to  
10      come directly from the user. Moving quickly. I know  
11     I've exceeded my time. I apologize Mr. Johnson, Dr.  
12     Jenkins.

13                      Very quickly, I'm going to go through  
14     the last ones. Charge question 4A. Features or  
15     incentives that could be included in the advanced,  
16     fixed payment approach to make it more appealing to  
17     receiving facilities. I'm also not an accountant and  
18     I'm also not a lawyer that understands the Internal  
19     Revenue Service or pay.gov's requirements or  
20     limitations. But just a thought or suggestion would  
21     be similar to how gas stations often advertise a  
22     reduction for cash payment. Because it allows them to  
23     avoid paying credit card or debit card transaction  
24     fees.

1 Estimating or calculating the cost to  
2 EPA of doing reimbursement invoices billing to include  
3 postage calculations, getting a very rough ballpark  
4 estimate of that, and then giving that either as an  
5 addition to the fees for those that choose not to make  
6 advanced payments or as a discount from those that are  
7 pre-paid. Somehow attaching that as a separate  
8 surcharge. Either as a surcharge or as discount  
9 depending on who you wanted to give it to, which way  
10 your regulations and statutes would allow you to do  
11 it. Just a suggestion there.

12 Charge question 4B. If the initial  
13 year's appropriations are not adequate to seed several  
14 years, does the Board consider it reasonable  
15 personally? Yes, I do. I would suggest also that EPA  
16 look at a two-year rather than a single-year viewpoint  
17 on this. Because at two years you're already planning  
18 to be adjusting the fee amounts anyway. And so that  
19 makes a natural breakpoint to also adjust advance  
20 versus reimbursement payments.

21 I also suggest, I'm not a lawyer nor am  
22 I a congressman that wrote this or passed this  
23 legislation, but I encourage EPA to take another look  
24 at the language in the statute that says, "minimize to

1 the maximum extent practicable the accumulation of  
2 unused funds." It is not a hard limit. There is  
3 wiggle room that Congress did leave in that statute.  
4 And the interpretation of the phrase "maximum extent  
5 practicable" is a matter for lawyers. I know EPA has  
6 quite a few that have probably already looked at that.

7 But I do believe it's worth another  
8 look to say the maximum extent practicable in the  
9 first year may be a very large amount. As long as you  
10 can make a very strong, reasonable argument that it's  
11 the maximum amount practicable for the minimum amount,  
12 that may fly.

13 Charge question 5A. Can the Board  
14 suggest alternatives to the industry commenters  
15 approach that would provide a workable and credible  
16 path to the widespread use of electronic manifests?

17 I believe something that's going to be  
18 helpful, both for the members of this board and for  
19 the public and for myself trying to sell this to  
20 regulated parties would be to clarify the path for the  
21 hybrid. There have been conflicting descriptions of  
22 how the hybrid process would work over the last two  
23 days and in EPA's white paper. And I think making  
24 that very, very clear would help.

1 I'm also going to say something now  
2 that I'll say may be viewed as heresy by some members  
3 of this board and some members of the public that are  
4 listening. But I'm going to throw it out there and  
5 say, when you're in a tough situation sometimes you  
6 have to consider alternatives you don't want to.

7 Minnesota, for instance, has very  
8 strongly stated that when the e-Manifest system goes  
9 live all manifests should be captured. However, I  
10 suggest that EPA may consider as a last ditch,  
11 fallback, default approach to do a phased  
12 implementation of the e-Manifest system. Whereby, EPA  
13 concentrates on the total e-Manifest, the pure e-  
14 Manifest, and allows the paper system to operate in  
15 tandem without data collection for a very limited  
16 time.

17 Until EPA has fully stood up the  
18 electronic portion, which is in fact the key and most  
19 important portion, and allows the paper to exist side  
20 by side. This would mean that the dataset is  
21 incomplete. However, there is no dataset right now so  
22 that would be an only incremental loss from something  
23 that's theoretical. That is not something that my

1 state has officially advanced. But as a member of  
2 this board I personally suggest EPA may consider it.

3           Considering that a majority of the  
4 discussion I've heard over the past two days regarding  
5 the complexity of implementing this program, and some  
6 of the complexities of the fees and paying for certain  
7 things have centered around the problem of paper and  
8 the hybrid approach. I suggest that it may be an  
9 option. An undesired, unwanted option, but it may be  
10 an option to not worry about paper until the e-  
11 Manifest pure system works.

12           And again, there may be many members of  
13 the board that disagree strongly. I clarify that I  
14 don't advocate this, but I suggest it may be a  
15 possible option or the only option that might work.

16           Finally, the last two. Charge question  
17 5B. Can the Board recommend features or requirements  
18 such as a cap on availability that should be included  
19 in the hybrid approach that would mitigate the risk  
20 that the hybrid might actually thwart the adoption and  
21 use of electronic manifests?

22           I acknowledge this is a very definite  
23 concern. I suggest -- and this may anger some of the  
24 receiving facilities or transporters in the room or on

1 this call -- that one method may be to require, as a  
2 regulatory requirement, that an image of the original  
3 paper manifest be submitted. Both as a data  
4 verification tool, if needed later, and as a closure  
5 of the unsolved question of what the copy of record or  
6 the official manifest is. That would also address Mr.  
7 Wilson's concern that if an image of the original  
8 paper manifest were submitted, there would be no need  
9 for anybody else to retain a copy of that paper  
10 because EPA would hold it.

11 This would impose a burden on receiving  
12 facilities. However, I think it would address the  
13 concern that the hybrid approach is intended to be a  
14 transition only and we do not want it to capture or  
15 supplant the pure e-Manifest out of convenience.

16 Finally, certainly an option that EPA  
17 has already considered, which is to officially sunset  
18 or limit by regulation the allowability of a hybrid  
19 system based on a specific timeframe, two to three  
20 years. Say that's it, after that it's got to be pure  
21 paper or pure electronic.

22 Charge question 5C. The disconnects  
23 and data-integrity issues that may occur due to the  
24 hybrid option. I revert back to my previous



1 suggestion, which is to require image of the original  
2 paper submittal be submitted with the extracted data  
3 or meta data that's submitted. I do believe there is  
4 a concern. And I emphasize it again; I stated it a  
5 few minutes ago. I have a very strong concern over  
6 the apparent placement of full responsibility and  
7 therefore liability on the receiving facilities for  
8 all data that comes from a hybrid manifest.

9 If they are the only party submitting  
10 something that prior to that was paper, de facto at  
11 this point they would be held fully responsible for  
12 the verification of all that data, including  
13 signatures. And I think that is a significant issue  
14 that EPA either needs to clarify or address.

15 I also bring up as one final point, not  
16 as a question that was charged to the board. And I  
17 want to be very clear about that. This board  
18 instructions were very clear that we were to limit our  
19 addresses to the questions that had been charged to  
20 the board by EPA after a winnowing process.

21 However, I bring to EPA's attention or  
22 remind EPA, about a question that it stated in 2014 in  
23 the one-year rule that it would explicitly charge to  
24 the board. And I request that EPA do charge to the

1 board at some later point when it's either appropriate  
2 or convenient, and that is the question of manifest  
3 copy retention that EPA addressed in footnote number  
4 19 at 79FR7539 in 2014. It was one of the charge  
5 questions that, frankly, I was looking forward to this  
6 board. The board was not charged with it.

7 And I just want to make sure that EPA  
8 does not forget that that does need to be addressed,  
9 and it explicitly said then that it would be sent to  
10 the board. I apologize for running way over my time  
11 and I thank you all for listening to me.

12 **MR. BARNES JOHNSON:** All right.

13 Thanks, Josh. Safe travels. We're going to take a  
14 break. We will start at a quarter until four and go  
15 for another hour and fifteen minutes after that.

16 (Brief recess.)

17 **MR. BARNES JOHNSON:** Okay. Fred's back  
18 so we're legal now. I'm going to turn the mic over to  
19 MiMi Guernica. And she is going to start us off on  
20 Charge Question 2.

21 **MS. MIMI GUERNICA:** Right. Can we get  
22 the slides? There we go. Thank you. Okay. This is  
23 MiMi Guernica. Charge question 2 deals with the  
24 corrections process.

1                   "Corrections Process for Manifest Data  
2           Already Entered in System. 2A states the following:  
3           Can the Board opine on how much prescriptive detail is  
4           necessary to prescribe a structured and orderly  
5           process for executing data corrections, while  
6           affording interested parties (waste handlers on  
7           manifest and regulators) the opportunity to  
8           participate adequately?"

9                   **MR. BARNES JOHNSON:** Thanks, MiMi. Tom  
10           Baker is our lead discussant on this question.

11                   **MR. THOMAS BAKER:** Okay. Yeah. This  
12           certainly is, I think, a critical issue that we've  
13           heard a little bit about already. That we need to  
14           have a uniform procedure for managing manifest  
15           corrections. The opinion that manifests, data  
16           quality, it's critical that it be a consistent process  
17           for manifest corrections, one in which the waste  
18           handlers and the regulators, when making data  
19           corrections, have to follow a very regimented,  
20           detailed process.

21                   I think the process needs to address a  
22           couple things. One is the entity responsible. Who is  
23           going to initiate the changes to the manifest? That  
24           should be limited to one or more people, but be

1 defined clearly as far as who can initiate manifest  
2 changes. Has to address the timing of these manifest  
3 changes.

4 Number three, what data elements, when  
5 determined to be incorrect, can be made as a data  
6 correction. Again, things that might be a voluntary  
7 change versus something that's deemed to be a  
8 mandatory correction. Like a significant discrepancy  
9 as defined in the regulations.

10 And then fourth and most importantly,  
11 is the process to be followed for submitting those  
12 data corrections. And then getting any kind of  
13 validation or verification from the other parties  
14 involved. I think the short answer is yes, it needs  
15 to be a very precise, well-defined procedure that's  
16 either part of the regulation or part of the  
17 instructions for using the system. It's got to be  
18 very prescribed and very specific.

19 **MR. BARNES JOHNSON:** Okay. Josh having  
20 to leave of us, John, you're the first associate  
21 discussant on this issue.

22 **MR. JOHN RIDGWAY:** Thank you. I'd like  
23 to ask a clarifying question relative to the question,  
24 so bear with me here. And that's the last part. The

1 opportunity to participate adequately. I guess I  
2 don't understand what participate adequately means.  
3 MiMi, can you give a little clarification on that,  
4 please?

5 **MS. MIMI GUERNICA:** I'm going to turn  
6 to Rich on that.

7 **MR. RICHARD LASHIER:** By participating  
8 adequately we mean that there are other individuals  
9 named in the manifest. In the proposed approach, we  
10 had the TSDf initiating the change and then there  
11 being other interested parties, which could be a  
12 generator or transporter named in the manifest, or a  
13 regulator as an interested party. The idea is how do  
14 we then provide a way that, if one person initiates  
15 this correction, what would be the process for those  
16 other parties to participate. What is an adequate  
17 process to enable them to participate in the  
18 corrections process?

19 Is it enough that they get some email  
20 or other instruction message to continue the change  
21 and an opportunity to comment? Does there need to be  
22 a window on how long they have to comment? How do we  
23 structure that process so that not only do folks have  
24 an opportunity to be involved, but there's an adequate

1 back and forth so we end up having everyone on board  
2 with the change.

3 **MR. JOHN RIDGWAY:** Okay. I think my  
4 only opine on this is that I would assume the  
5 generator and the receiving facility should be the  
6 primary entities to look at, understand and clarify  
7 what's going to be entered into the record. From a  
8 state perspective, I would like to think that that  
9 process needs to happen first. And then to the degree  
10 a state entity or EPA has questions, they would be  
11 secondary after the initial correction would be  
12 addressed between the generator and the receiving  
13 facility or the transporter if that's relevant to the  
14 dynamic of the correction.

15 That's about the only comment I have.  
16 To participate adequately we need to see that  
17 correction, we need to be notified of it. In our  
18 state, for example, there are other triggering  
19 regulatory actions that may happen depending on the  
20 data that's reported. And a general example is if a  
21 business generates over a certain amount, in a given  
22 year, then they're subject to other requirements in  
23 our state. We would certainly need to know about that  
24 if a threshold was met or exceeded.

1                   But to me, that's secondary to  
2 initially the generator and the receiving facility or  
3 transporter making sure they've reconciled questions  
4 first. I'll leave it at that.

5                   **MR. BARNES JOHNSON:** Cindy?

6                   **MS. CYNTHIA WALCZAK:** This is Cindy. B  
7 and C, I think, cover a lot of what Mr. LaShier spoke  
8 to when he was elaborating on part A. I'd like to  
9 stick literally to part A. And I think what this  
10 question is asking, and I'd like you to confirm, is  
11 how much do we need EPA to be involved? That is, do  
12 we need EPA to put it in the regs?

13                   **MR. RICHAD LASHIER:** Exactly.

14                   **MS. CYNTHIA WALCZAK:** Do we need EPA to  
15 provide a form? Do we need EPA to build it into a  
16 module? Is that really what this question is asking?

17                   **MR. RICHARD LASHIER:** I think you're  
18 hitting the nail on the head. Because when I wrote  
19 the proposed rule language, I was getting a little  
20 concerned that we were getting into a really nitty-  
21 gritty detail area.

22                   Okay, if this first initiates a change  
23 then by Day 30 someone else has to comment. Then by  
24 Day 60 they have an opportunity for a rejoinder. And

1 then by Day 90 that's all come to a conclusion. It  
2 seemed like we were getting into a lot of very  
3 rigorous, rigid types of requirements for deadlines.  
4 And again, it was only 90 days being the completion  
5 point. And that's why we asked the question. If 90  
6 days is out, what do you folks want to see as a  
7 substitute for that process to give it some beginning  
8 and end, as well as the adequate participation.

9 **MS. CYNTHIA WALCZAK:** Okay. I think  
10 the extent to which EPA prescribes that currently is  
11 the extent that I would like to see EPA involved in  
12 the future.

13 **MR. RICHARD LASHIER:** Okay.

14 **MS. CYNTHIA WALCZAK:** Which is to say,  
15 I have very little reason in my day to day life to  
16 submit discrepancy reports. But I don't really think  
17 that needs to be changed just because we're going to  
18 an e-Manifest system. Is that not a valid option?

19 **MR. RICHARD LASHIER:** So when you say  
20 the current level of detail, you mean the current  
21 level of detail in the discrepancy reporting system,  
22 but not necessarily in the proposed rule language? I  
23 wanted to clarify what you meant by the current level  
24 of detail.



1                   **MS. CYNTHIA WALCZAK:** Right now if I  
2 had a discrepancy on my manifest, I would probably  
3 send a letter to Veolia saying you need to change 800  
4 pounds to 80 pounds, there is a mistake. I don't have  
5 to refer to a set of regulations telling me. Does  
6 that make sense?

7                   I don't really think I need four pages  
8 of regulations telling me who, what, when, where and  
9 how. I think I would like to keep it simple in that  
10 you need to notify the TSDf within a certain period of  
11 time as to the nature of the discrepancy.

12                   **MR. RICHARD LASHIER:** And that's what  
13 we were getting at on question A, is how much  
14 regulatory rigor do you want to see in our effort to  
15 describe this process?

16                   **MS. CYNTHIA WALCZAK:** Not much.

17                   **MR. RICHARD LASHIER:** Okay.

18                   **MS. CYNTHIA WALCZAK:** I think we've got  
19 this. I mean I think TSDfS and generators have been  
20 communicating for several years now when things we  
21 thought went on the truck later turn out to be  
22 different than what really went on the truck. I don't  
23 think we need EPA to get in the middle of that any  
24 more than now. But again, I'm not certain why this

1 came up. Why, because we're moving to an e-Manifest  
2 system EPA thought that this aspect of the regs needed  
3 to be changed of the regs?

4 **MR. RICHARD LASHIER:** Because our  
5 General Counsel advised us that if we were going to  
6 have a corrections process, where there was going to  
7 be expectations or even a particular format they had  
8 used, things that were eligible to be changed and had  
9 to be specified, it should be fleshed out in a  
10 regulatory provision. That's what we heard from OGC.

11 **MS. CYNTHIA WALCZAK:** They did? Okay.  
12 I would say right now if something went on the truck  
13 that shouldn't have been on the truck, or I didn't  
14 indicate it on the manifest, I would reach out to my  
15 customer service representative. I'd say we've got a  
16 problem here, I'm going to change 80 to 800 on my  
17 manifests. You change 80 to 800 on the copies you  
18 have to transporters. We don't really need a form  
19 from EPA to do that.

20 **MR. RICHARD LASHIER:** So is your point  
21 we need no regulatory process or minimum process? And  
22 if it's minimum, maybe folks can fill in what that  
23 means.

1                   **MS. CYNTHIA WALCZAK:** I don't need EPA  
2 in the middle of this.

3                   **MR. RICHARD LASHIER:** Okay.

4                   **MS. CYNTHIA WALCZAK:** Period.

5                   **MR. BARNES JOHNSON:** Justin?

6                   **MR. JUSTIN WILSON:** My position would  
7 be that EPA should not create regulation around what's  
8 allowable to be modified. But you guys have the  
9 system. You have to set up the system in a manner  
10 that is usable for all of us. My suggestion is that  
11 you allow, in your system, all users of that  
12 particular manifest to make corrections at any time.  
13 And your system documents then who made the change  
14 from what to what.

15                   And my reasoning behind that is, if it  
16 comes time for reporting to a particular -- say a  
17 state is utilizing this system for reporting now. I  
18 don't have to do a separate report or biannual  
19 reporting under federal. And we realize at the ninth  
20 hour that we look to be in LQG, because my earlier  
21 reference of acute hazardous waste being one pound,  
22 three waste streams of it, one pound each makes us  
23 look like we're in LQG. We being the generator, needs  
24 to be able to quickly go in there and change that.

1                   If the state's involved for  
2 notification or reporting, they need to be able to see  
3 who made that change and that they can contact that  
4 person, that generator and follow up. Sometimes the  
5 states are telling us, you know, I see this. We talk  
6 it out and explain that we agree there's an error and  
7 I've got internal data to support that. Like weighing  
8 below the pound to the tenth or to the hundredth for  
9 acute hazardous waste. I document that, I can support  
10 that. The state and I agree that that's a viable  
11 change. I should be able to go in there and make that  
12 change.

13                   What I fear is relying on a TSDf to  
14 make that change timely for the generator. Because  
15 they have no carrot unless they have a direct  
16 financial connection with that generator to make that  
17 change timely. And often cases those TSDf's do not  
18 have a direct relationship with that generator. They  
19 have a relationship with a service contractor who is  
20 in between the two.

21                   I would also want the ability for my  
22 service contractor to be able to make that change on  
23 my behalf. If their technician made an error, and  
24 they made it in many places like a total territory,

1 which is several states, I would expect my service  
2 contractor to be able to make those changes. That's  
3 enough examples. My bottom line is any user of that  
4 manifest should be able to make those changes and the  
5 system should document when and who made the change.  
6 Does that answer the question?

7 **MR. RICHARD LASHIER:** It does.

8 **MR. BARNES JOHNSON:** Thoughts from  
9 other members of the Board? I think Mike was a  
10 microsecond before you, Rob.

11 **MR. MICHAEL HURLEY:** I just wanted to  
12 support Justin's statement. And I think he's entirely  
13 correct. But also, if you think about it the concept  
14 of the discrepancy report is just an artifact of the  
15 paper process. There really isn't any need for that  
16 kind of a thing anymore. It's sort of an artifact of  
17 the fully paper historical process where you needed  
18 something called a discrepancy letter because it would  
19 take literally months and months, six to eight months  
20 maybe, to finally reconcile all these pieces of paper.

21 If it's an online or electronic system,  
22 notification should be given back to all parties that  
23 someone has made a change. You can see the last  
24 change by, you can see exactly what it is. And it

1 will allow you real time changing of all the data  
2 points. But more so, it would also push the adoption  
3 of the fully electronic process. Because why wait  
4 around? Why have somebody have to reconcile bits of  
5 paper and staple them together and put them in a  
6 filing cabinet? It's just done. That's just what I'm  
7 thinking about.

8 Perhaps, if there's going to be an also  
9 parallel hybrid system or a paper system, that's going  
10 to have to maintain that paper process of the  
11 document. Because there would be no other way to  
12 update it, that all parties can see there has been a  
13 change.

14 **MR. BARNES JOHNSON:** Rob?

15 **MR. ROBERT KLOPP:** So this is Rob  
16 Klopp. I want to take all of this stuff that's  
17 actually said in business terms, what I was  
18 daydreaming about anyway, and I'm going to say it just  
19 a little bit more geeky. I think that everybody that  
20 touches the waste in the process has, if you will,  
21 their own copy of the manifest that they are the owner  
22 of. And each of them register what it is that they  
23 think that they picked up and dropped off and all that  
24 sort of stuff.

1           And I think that if you let everybody  
2 own their own view of the world, what you end up with  
3 is a picture of the entire process, including the  
4 discrepancies, which are really interesting  
5 information. Because isn't it interesting information  
6 that this person says that he transported 800 barrels  
7 and this person who says he picked up only 80. I mean  
8 that could be an error that they dropped a zero or it  
9 could be, you know, 720 barrels fell off the guy's  
10 previous truck. And you want to know that.

11           I think that the way I would suggest  
12 that you do this is everybody owns their own copy of  
13 the manifest. Everybody can make whatever corrections  
14 they want to their copy of the manifest. If anybody  
15 makes a correction you track the fact that on such and  
16 such a day this user made this correction. You just  
17 have to do that for audit anyway. And in the end you  
18 have this picture of what everybody individually  
19 thought was going on.

20           And now the EPA, not necessarily with  
21 regulation but as a matter of policy, might say the  
22 official copy that EPA thinks is important is this  
23 number from the receiving and this number from the  
24 generator and this from this and this and this. I

1 mean, you guys can create your own rules if there's  
2 discrepancies as to how you want to evaluate the  
3 discrepancies. And determine this is the manifest  
4 from EPA's view. But that's just another copy of the  
5 manifest that you guys apply your view on top of.

6 I think you end up with a better  
7 picture. I think that you end up not in the middle of  
8 this thing. Everybody owns their own copy. They can  
9 make their own changes whenever they want. And you  
10 end up with a better picture of what's actually been  
11 going on anyway. Because like I said, the discrepancy  
12 is data. You don't want the discrepancy to go away.  
13 You want to know that there was some difference  
14 between what this person thought was going on and this  
15 person.

16 And then the other thing I'll say is --  
17 maybe this will be more of a question. What is the  
18 cost of bad data quality when it comes to these  
19 manifests? And the reason I'm asking that is because,  
20 you know, the technology that is available today to  
21 make some of the problems you guys have been talking  
22 about completely go away, if I fill out the manifest  
23 as I receive something off a truck on my iPhone I know



1 the location because I have a GPS entry. I don't have  
2 to ask somebody what the EPA ID is, right?

3 If you decide the cost of having a bad  
4 EPA ID is a big deal, there's probably easy technology  
5 ways to find out exactly where that thing was  
6 offloaded. As opposed to having somebody enter it in  
7 and it might be entered in incorrectly. Because, as  
8 was said earlier, you're two blocks away from another  
9 site that's not contiguous.

10 The first thing I would say is  
11 everybody owns their own manifest. The second thing I  
12 would say is, ask yourselves how much effort you  
13 really want to put in to get higher quality data  
14 rather than just have people fix it themselves. And  
15 it could be that it's really important to have high  
16 quality data and you want to go invest in some kind of  
17 a system that allows you to be more accurate.

18 **MR. BARNES JOHNSON:** Tom?

19 **MR. THOMAS BAKER:** Yeah. Kind of  
20 taking parts of all that I just heard from all of our  
21 board members which is very useful. I just want to  
22 make sure everybody understand there's a very complex  
23 process for a hazardous waste facility to accept a  
24 shipment of hazardous waste. They have approved waste

1 analysis plans that are part of a permitting process  
2 that define specifically the process for sampling the  
3 waste, verifying what's being received and then  
4 communicating any discrepancies back to generators and  
5 doing discrepancy letters, only in the case where  
6 they're not resolved within 15 days.

7 This process has been in place for 20  
8 plus years at every facility. There is communication  
9 between the receiving facility, the transporters, the  
10 generators, to resolve discrepancies today. And to  
11 speak to Cynthia's point, I don't think EPA needs to  
12 make that any more complicated than it already is and  
13 make that electronic.

14 Now at the end of the day, there's  
15 going to be discrepancies identified that have to be  
16 made in the database. We need to clarify who is going  
17 to make those changes and what changes have to be made  
18 in the database. For example, today we have  
19 differences in piece count, quantity changes, waste  
20 type changes that are called significant  
21 discrepancies. Those will be made certainly in the  
22 database.

23 I think Josh mentioned it earlier but  
24 there could be incorrect EPA ID numbers, addresses,

1 you know, those are important changes to make once  
2 they're identified. But again, they're not under  
3 today's regulations to be deemed to be significant  
4 discrepancies.

5 We will need more instruction, more  
6 clarity to what has to be changed. And that may not  
7 be regulation, that might just be policy or procedures  
8 that go along with the software that we're utilizing.  
9 The one thing I want to caution against from an  
10 industry TSDF perspective is that we want to make sure  
11 that the person making the manifest correction is the  
12 most knowledgeable person to make those changes.

13 And where it's not always going to be  
14 the TSDF, in my opinion, in most cases it is the TSDF  
15 that's handling the waste. That's treating the waste,  
16 that's opening the container, taking a pH, doing a  
17 flashpoint test, whatever it might be. You know, they  
18 have the knowledge to make those changes.

19 There will be disagreements and there  
20 always has been at times. They're limited. But the  
21 generator and the TSDF have to work together to  
22 resolve those discrepancies and come to conclusions  
23 that are reasonable that we can then make changes to  
24 the manifest.

1 I want to point out that process is in  
2 place today in the paper form and that really  
3 shouldn't change. I get a little concerned when I  
4 hear, in general, just comments about changes based on  
5 all users having a preference to change data. And  
6 putting a change through the system that may create an  
7 administrative nightmare for the TSDF that's got to  
8 now manage multitude of changes and monitor those from  
9 day one of receipt all the way out to forever if we're  
10 not talking about a 90-day correction timeframe.

11 I think we need simplicity. We need to  
12 keep the current process in place with the  
13 communication that occurs today between the generators  
14 and the TSDFs. And just clarify what has to be made  
15 as a manifest data change in the system and who is  
16 going to do that change.

17 **MR. RICHARD LASHIER:** And Tom, you  
18 don't see any issue -- and I'm wondering about what  
19 the lawyers have been saying. The initial receipt,  
20 what's certified as being received by the TSD, does  
21 anyone who has commented so far have an issue with  
22 whether the correction should likewise be certified?  
23 Does that have to be on an equal level of legal  
24 assurance as with the initial receipt certification?

1 Or is it okay that it's there noted but not actually  
2 certified?

3 **MR. THOMAS BAKER:** So I think one of  
4 the challenges is how do we make these manifest  
5 corrections? Again, what's in place today with the  
6 hazardous waste facilities is they all have their  
7 waste acceptance and waste tracking systems. So what  
8 happens today, my company and other companies of folks  
9 in this room that represent facilities is that, you  
10 know, we're making changes not just to piece of paper  
11 but within our waste tracking database. That data,  
12 then, is going to be transferred electronically in the  
13 hybrid system as well as in the future to EPA as  
14 accurate data. And it will be certified as accurate  
15 based on a batch upload.

16 We're not going to be probably in there  
17 making individual changes one at a time to datasets  
18 and then pushing it to EPA one at a time. So again,  
19 understand the industry system in place today is  
20 important to understand how these corrections might be  
21 made and certified more in a batch form and is more  
22 realistic than being done by logging on, finding a  
23 generator's name, EPA ID number, identifying the data  
24 element to change, changing it in EPA's database.

1                   And then going back to my industry  
2                   system database and doing the same change. I don't  
3                   think that's realistic and is going to be viewed as an  
4                   efficiency or a burden reduction for the industry.  
5                   Does that make sense, Rich?

6                   **MR. RICHARD LASHIER:** You would see it  
7                   being sufficient that the back certification would be  
8                   handled as a system matter and not as a regulatory  
9                   matter?

10                  **MR. THOMAS BAKER:** Exactly. More of a  
11                  batch upload of data that would be certified upon  
12                  submission by a registered person at the receiving  
13                  facility.

14                  **MR. RICHARD LASHIER:** I'm just trying  
15                  to clarify that there's absolutely no need for any  
16                  part of this to be regulated, the certification  
17                  included. That's all.

18                  **MR. THOMAS BAKER:** Right. That's my  
19                  thoughts.

20                  **MR. BARNES JOHNSON:** Cindy?

21                  **MS. CYNTHIA WALCZAK:** I work with Tom's  
22                  company and you're an excellent company. But you're  
23                  not the only one. So there's other companies out  
24                  there that have a tendency to over code the waste.

1 And so to give them sole discretion to re-code waste,  
2 basically override the generators determination as the  
3 proper characterization, I think is problematic. And  
4 that's probably not in your worldview because your  
5 company doesn't do that. But there are companies that  
6 will throw waste codes at it that the generator  
7 doesn't agree with.

8 And the generator, I think, needs the  
9 opportunity to say, no, I properly characterized my  
10 waste. And not just give the receiving facility carte  
11 blanche to change the generator's determination.

12 **MR. THOMAS BAKER:** I understand what  
13 you're saying. How does it happen today though? You  
14 have a paper manifest today and you have a  
15 disagreement with the TSDF and they want to change the  
16 waste codes that you don't agree with. How does that  
17 work today?

18 **MS. CYNTHIA WALCZAK:** It really  
19 doesn't. If they came to the site and they had a DO-8  
20 on it -- and say you profiled it as a DO-1 and a DO-8,  
21 but this particular batch doesn't have lead in it.  
22 You're shipping it just as DO-1. They're going to  
23 come to your site with a manifest that says DO-1 and  
24 DO-8 on it. And the generator is going to cross the

1 DO-8 out and they're going to sign it. And from the  
2 generator's perspective, that's a perfectly good  
3 manifest now, now that they've corrected it.

4 I think some receiving facilities  
5 simply don't acknowledge the change. They just go on  
6 with what's on the profile. But since the data is not  
7 married at any point, nobody really absorbs that if  
8 you will. But now that, under this scenario, the TSDf  
9 would be allowed to basically have the final say it's  
10 a little different.

11 I guess what I'd say is, I think, the  
12 TSDf isn't changing the manifest, but their computer  
13 records are showing it as being over-coded. But the  
14 hard copy is right and so the generator is good. Does  
15 that make sense?

16 **MR. THOMAS BAKER:** So there you have a  
17 difference between a TSDf electronic record on their  
18 own system versus what's on the paper. That's your  
19 concern?

20 **MS. CYNTHIA WALCZAK:** Yes.

21 **MR. THOMAS BAKER:** Okay. Okay.

22 **MR. JUSTIN WILSON:** I don't work in a  
23 TSDf so correct me if needed. But I think the reason  
24 that happens is the TSDf has profiles for generator



1 onsite, and they're audited to what they've received  
2 versus those analyses and those profiles that they  
3 have. I think when a generator makes a change, such  
4 as crossing out a waste code and sending it to a TSDF,  
5 that waste no longer matches a preapproval, a profile  
6 for that TSDF. I think that TSDF is saying, you've  
7 already shipped it, transported it, I've already  
8 received it and I don't have a profile with your  
9 company as a generator with that proper shipping name  
10 and just do 001. So I think that may be why they're  
11 doing that to you.

12 **MS. CYNTHIA WALCZAK:** Well, not to get  
13 too deep into the weeds, but your profile can be more  
14 or less prescriptive. I could have a profile that  
15 says DO-1 and/or DO-1 and DO-8. I could have a  
16 profile like that and get approved.

17 What they will do, particularly in a  
18 case like that, is just code the waste as DO-1 and DO-  
19 8. And that way they're never wrong on their end.  
20 But some of the generators I work for take their  
21 responsibility very seriously to properly characterize  
22 the waste and not over characterize it.

23 But that's really just an example. I  
24 just think it should not be dismissed that the

1 generator is ultimately responsible for accurately  
2 characterizing the waste. And therefore, needs to  
3 have some final blessing in terms of what's in the  
4 official record in terms of the waste  
5 characterization.

6 **MR. THOMAS BAKER:** As I'm thinking  
7 about that scenario again, you're certifying as a  
8 generator as being the proper waste classification.  
9 TSDF has a legal obligation to accept it as it's  
10 written on that manifest. And if they decide it's  
11 wrong, then it's a discrepancy and they have a  
12 regulation to follow today. I think in what you  
13 described to me, at least what I'm hearing, is that  
14 TSDF is not operating in compliance with the  
15 regulations today. I hate to make, in my opinion, a  
16 decision on a system design based on a situation that  
17 someone is not following today's regulations.

18 **MS. CYNTHIA WALCZAK:** But I don't think  
19 they'll change. My point is that right now they, the  
20 TSDF, has a discrepancy between their paper copy and  
21 their electronic records. That's not really my  
22 problem, right. But it becomes my problem if their  
23 electronic records become the official records.

1 Suddenly it's my problem. Where today it's not. Does  
2 that make sense?

3 **MR. THOMAS BAKER:** Yeah. No, I  
4 understand.

5 **MR. ROBERT KLOPP:** So this is Rob. I  
6 guess part of why I'm trying to suggest that the wrong  
7 thing to do is to have one view of the world, right.  
8 That these kinds of problems get masked, right.  
9 Because over time we'll be able to start to observe  
10 trends in the data that say something like, you know,  
11 if you're coded for three types of waste and you  
12 always put in three types of waste, and I can see that  
13 the receiving guy -- you can just start to detect who  
14 is fudging it a little bit. And you can get smarter  
15 at making sure that there is a view of the manifest  
16 that is as accurate as you can think to make it.  
17 Without forcing everybody to change and come to  
18 complete agreement. You'll just sort of learn these  
19 rules because that's the way data works, right?

20 I really want to strongly argue that  
21 there shouldn't be any one person owning this.  
22 Because part of the debate we're already having is, I  
23 mean, one of the rules you guys talked about was that  
24 the receiver is the final arbiter of what goes on.

1 But now we're having a discussion about the fact that,  
2 yeah, but maybe the generator is the guy that really  
3 knows what's going on because after all he generated  
4 it. All I'm saying is let's keep all of those views  
5 of the world. Let everybody maintain their own view of  
6 the world. And create some rules to figure out what  
7 is the EPA's view of the world or the legally binding  
8 view of the world, based upon looking at all of these  
9 different people who have different perspectives of  
10 what's going on.

11 I think it causes you to not have to  
12 negotiate things and stuff like that. As long as you  
13 go look at what EPA thinks is the legal manifest and  
14 says, yeah I can live with that.

15 The other thing is imagine a world that  
16 says that the receiver receives it in and in the  
17 receipt there's a discrepancy. But now when you're  
18 the generator and you pull up a view of the manifest  
19 there's a little button that says click here to change  
20 to what that person says. And you just go click and  
21 change it. I mean we can start to make these things  
22 really, really easy to make discrepancies go away when  
23 it's electronic.

1 I guess I really think that I want to  
2 argue really strongly that we don't try to overthink  
3 one view of the world. Let's let everybody have one  
4 view of the world and then find a way to rationalize  
5 it after we have five copies of the manifest. Not  
6 every time somebody go in and change the manifest that  
7 overwrites what somebody else wrote in. I just think  
8 that this is not hard to do in a system.

9 **MR. THOMAS BAKER:** Just want to add  
10 another point. It's a complex situation because we're  
11 talking about waste code changes, for example. And  
12 the receiving facility has obligations to satisfy the  
13 land disposal restrictions for that waste. Has to be  
14 treated to meet treatment standards. Some can't be  
15 land filled, some can't be incinerated. It's not just  
16 a data change that we can all disagree on and then  
17 just have two different versions and move on.  
18 Someone's going to be held liable at the end of the  
19 day for improper management of the waste.

20 And then I'll have one of my state  
21 partners coming to my facility and saying, you didn't  
22 comply with the LDR standards for this waste stream.  
23 It's a big issue and there certainly will be  
24 disagreements. We just got to figure out how to best

1 resolve them between generators and TSDFs. And  
2 document them without creating an administrative  
3 burden in the process, where there's changes coming  
4 around every day on manifests that someone has got to  
5 validate and verify.

6 Again, I would say that the process  
7 that's in place today has been working quite well.  
8 It's not perfect but it's worked quite well. I would  
9 try to mirror an electronic system to match what's in  
10 place today as much as we can.

11 **MS. CYNTHIA WALCZAK:** I agree. I think  
12 it works well today because it's done in consultation  
13 with the generator. And the example you brought up is  
14 really apropos because if the generator says it's a  
15 high TLC DO-1 they're not going to submit an LDR form.  
16 If the receiving facility decides just to put an F2 on  
17 it, then suddenly the generator is in violation  
18 because they don't have an LDR form on file.

19 I'm pretty confident that generators  
20 don't want TSDFs to be able to change data without  
21 consulting and getting agreement from the generator as  
22 it relates to, in particular, characterization of the  
23 waste. Because that's the generator's responsibility

1 to properly characterize the waste. It's not the  
2 TSDFs.

3 **MR. ROBERT KLOPP:** This is Rob. By the  
4 way, this is a user story, right.

5 **MR. STEPHEN DONNELLY:** Yeah.

6 **MR. ROBERT KLOPP:** This is a user  
7 story. The fact is the system's got to be able to  
8 support the collaboration or whatever it is that  
9 you're talking about. It's got to be able to support  
10 it. And this is a user story.

11 **MR. RICHARD LASHIER:** Rob, to clarify  
12 the point you made about there being different views  
13 of the world and then EPA can develop its rules on  
14 which one is binding. What would guide EPA in that  
15 judgment as to which version of the world is binding?  
16 I mean we're more removed from the shipment than  
17 anybody else in the room. How would we exercise that  
18 kind of judgment?

19 **MR. ROBERT KLOPP:** I'm not exactly  
20 sure. But I would argue that if you think you're  
21 going to promote a regulation that is going to set  
22 these rules then you must have some idea, right.

23 **MR. RICHARD LASHIER:** Well the idea had  
24 been to rely upon the TSDF as being close to the

1 receipt area, perhaps initiating the change and  
2 consulting with the others involve and having the last  
3 word. And that kind of put EPA in the role of  
4 creating a process that had an endpoint with a  
5 decision maker, but not having EPA being the umpire.

6 **MR. ROBERT KLOPP:** Right. I guess my  
7 problem is that what I'm hearing and I've heard really  
8 even yesterday is that that view is not going to  
9 provide you the accurate end result that you want.  
10 What I would say is that if, you know, like I said,  
11 maybe the system has to provide a way to allow  
12 collaboration between all of these people to come to  
13 the conclusion that everybody that touched the  
14 manifest agrees to, right. It sounds like you're  
15 going to have to do something like that.

16 Because any rule where you just pick  
17 somebody and said, you own the final thing, is  
18 probably not going to get you where you want to go.

19 **MR. RICHARD LASHIER:** I'm not sure EPA  
20 necessarily has a regular role in having to come up  
21 with a final version until it's really time for this  
22 to become part of the biannual report collection where  
23 that's EPAs role in actually collecting the biannual  
24 report information. The thought had been that e-



1 Manifest might be a way to begin that process  
2 electronically by in some ways having this corrected  
3 data become sort of the first run of the biannual  
4 report through a more automated process.

5 That's where EPA has the greater  
6 interest in actually having a decision made, is at the  
7 time it's ready for the BR. Maybe it's not necessary  
8 to have that decision made when these manifest views  
9 are out there, but at some point when the BR is going  
10 to be rolled up, there has to be some process in place  
11 where we get a version of the waste receipts from the  
12 receiving facilities and the generators are going to  
13 have their GM reports, whatever. I suppose that's how  
14 it's going to be done.

15 They'll have their view in the GM  
16 reports and the TSDf will have their view in the waste  
17 receipt reports. But that's something we require down  
18 the road is to have those two summaries come together  
19 at that biannual report process.

20 **MR. ROBERT KLOPP:** But I guess the  
21 things that's cool about the story that I'm just  
22 hearing is that there is a real life collaborative  
23 thing that goes on anyway. Right now it happens via  
24 phone and it's archaic because it's a bunch of paper

1 stuff. And so you want to reduce the cost and get  
2 buy-in from these people. Build a way for them to  
3 collaborate faster, more accurately, more effectively.  
4 To the benefit of everybody. And that makes the  
5 system more attractive and starts to solve some of  
6 these other problems about how you get acceptance,  
7 right.

8 I mean, this sounds like it would be a  
9 value add that would significantly improve the  
10 attractiveness of the product.

11 **MR. RICHARD LASHIER:** I just wanted to  
12 clarify. It's not necessarily likely that EPA is  
13 going to want to be putting itself in the middle and  
14 become the arbiter of each one of these collaborative  
15 processes when they break down.

16 **MR. JUSTIN WILSON:** I think I still  
17 have the same position that I did originally which is  
18 allowing the different users to make changes that are  
19 tracked in the system. The EPA doesn't have to  
20 interject who is right and who is wrong. But the way  
21 I see it is, if a TSDf changes the information on a  
22 manifest that negatively affects me as the generator  
23 and therefore I've got to do biannual reporting that  
24 year, well, once is on them, twice is on me. I'll go

1 find somebody else to do business with. I think  
2 that's how this stuff will get resolved without any  
3 EPA interaction.

4 If the final record from the TSDF  
5 uploaded causes me to do biannual reporting for one  
6 generator site that year, I'll pay my LQG fees that  
7 may be associated by the state that generator is in.  
8 But next year I'll have a different TSDF that that  
9 waste is going to.

10 That's why I think allowing different  
11 users to -- and you're a little over my head Rob, I'm  
12 sorry. But I always like hearing your ideas because  
13 they're very intelligent. But in my concept the idea  
14 is that copy that gets uploaded from the TSDF, if they  
15 made a change post me making a change, for instance,  
16 and I'm stuck to that, that's fine.

17 I'll deal with that. I'll find  
18 somebody else to do business with. That's how the  
19 world works. I think that's how you can stay out of  
20 it.

21 **MR. BARNES JOHNSON:** Thanks, Justin.  
22 I'll let you go John.

23 **MR. JOHN RIDGWAY:** I agree with pretty  
24 much what I've been hearing here. But to the

1 question, I wouldn't get anymore prescriptive in  
2 regulation. If that's the real question here. The  
3 collaborative process needs to function. And it seems  
4 to me that the biggest stakeholders are the generator  
5 and the people who actually touch that manifest. And  
6 leave this one alone as much as possible because  
7 you're going to have other challenges. If there is a  
8 disagreement, it seems that these two parties have to  
9 reconcile first.

10                   Something gets submitted up to EPA or  
11 state. To the context of the opportunity for  
12 interested parties to participate, as the question is  
13 written, I think it's more about the interested  
14 parties have a chance to see that data at the  
15 appropriate time when the reconciliation has had a  
16 chance to function first. That's it.

17                   **MR. BARNES JOHNSON:** Thanks, John. My  
18 sense is, I'm gathering, I don't want to preempt for  
19 the discussion. My sense is we've aired this  
20 particular question pretty thoroughly and you guys  
21 have given us some great feedback on this.

22                   Does anybody feel otherwise? Otherwise  
23 I'd like to power into the next question. I know it's  
24 on tomorrow's agenda, but I'd like to just keep moving

1 forward if we can. Were you going to say something,  
2 Justin?

3 **MR. JUSTIN WILSON:** I have a question  
4 for you. Being this is our first time to do this and  
5 trying to understand this process of debating among  
6 the board and then yesterday you guys mentioned trying  
7 to get the board to come to a consensus, so I guess a  
8 majority. Is that not necessary? Are we really just  
9 each speaking our opinions and then the EPA ultimately  
10 decides what direction to go down the road?

11 **DR. FRED JENKINS:** This is Fred Jenkins,  
12 DFO. Of course, we encourage consensus. And when we  
13 met in the very beginning, before this meeting, in our  
14 administrative meeting, I encouraged you all to come  
15 to consensus. Granted we know that total consensus is  
16 not always possible. And we understand there could be  
17 dissenting or varying views.

18 And all that's good because the agency  
19 needs to know that. They need to know what you have  
20 to say essentially. And that gets captured in a  
21 report. I've said this before in our admin meeting,  
22 if, say, most of the board said let's do A, but then  
23 you had a couple of members that said no, I don't  
24 think A is a good idea. Let's go with B. That gets

1 captured in a report just as that. I'm hoping that  
2 that addressed your question.

3 **MR. JUSTIN WILSON:** It does. I had a  
4 different perception of this piece of the program  
5 before. I understand now that we're just expressing  
6 our positions on it and it's not final regardless of a  
7 majority versus a minority. Okay.

8 **MR. BARNES JOHNSON:** No. But let's  
9 take this conversation that we just had. And you guys  
10 correct me if my interpretation is incorrect. I heard  
11 a fair amount of unanimity among the board members. I  
12 heard that you didn't want to over regulate in this  
13 area. I heard that you wanted there to be kind of  
14 free and open and trackable conversations between the  
15 generator and the TSD.

16 I heard Rob say that any software that  
17 could help facilitate that and clarify that, you know,  
18 who is doing what to the data records and that sort of  
19 thing and being able to fully track the updates and  
20 the changes to the data is an important thing.

21 I heard a lot of sentiment towards the  
22 process the way it works today, everybody is familiar  
23 with and it seems to be working. And there's a great  
24 deal of incentive already in the TSD and generator.

1 I'm not trying to put words in your  
2 mouth. But I mean I sort of heard on this issue fair  
3 unanimity. So when you guys go to work among  
4 yourselves to develop the report it will perhaps grasp  
5 those things. I didn't hear a lot of divergence on  
6 that last one.

7 **MR. ROBERT KLOPP:** Justin, the way I  
8 understand this is that we will strive to come to  
9 consensus as to what is written in the report. Not  
10 come to consensus right now around the table. Does  
11 that more directly answer what you were asking?

12 **MR. JUSTIN WILSON:** That's the clarity  
13 I needed. Thank you.

14 **MS. CYNTHIA WALCZAK:** Could I say I  
15 don't think we addressed B in this which refers to a  
16 90-day window?

17 **MR. BARNES JOHNSON:** No. We haven't  
18 gotten to B yet. We were about to go to B right now.

19 **MS. CYNTHIA WALCZAK:** Oh, I thought you  
20 were ready to go to three. Okay.

21 **MR. BARNES JOHNSON:** No. We're about  
22 to go to 2B.

23 **DR. FRED JENKINS:** I'm sorry to chime  
24 in again. Just for clarity sake. So in regards to

1 what goes in the report essentially what you all are  
2 discussing here all goes in the report. There  
3 shouldn't be any new novel ideas or any new consensus  
4 ideas in the report. As much as you can, come to  
5 consensus here. This is a deliberation for you all to  
6 discuss and come to some sort of agreement or  
7 collective advice to the agency here.

8 After the meeting is over, you all are  
9 essentially just summarizing what you said or  
10 reporting back what you said in a clear concise way  
11 that the agency can understand what you're saying.  
12 There is no new information, if that addresses the  
13 point made.

14 **MS. CYNTHIA WALCZAK:** Yeah. Could I  
15 say that we strayed quite far from 2A in this  
16 conversation. I think as it pertains to 2A are we not  
17 all in agreement that the process as it works now is  
18 generally acceptable and we don't want additional  
19 regulations prescribing how to do that? Thank you.

20 **MR. JOHN RIDGWAY:** John Ridgway here.  
21 Process clarification. I believed that the board will  
22 have a chance to look at a draft, ask questions and  
23 work collaboratively to clarify where we may have  
24 misunderstandings from that draft. Although we're not



1 bringing up any grand new ideas in that process, they  
2 need to be reflected here, we're not signing off on a  
3 final statement. We'll have a chance to do that in  
4 the process in the months ahead.

5 **DR. FRED JENKINS:** Yes. Certainly.  
6 And I'll talk more about the report in my closing  
7 remarks at the end of the meeting. But yes, what you  
8 said was pretty much correct.

9 **MR. BARNES JOHNSON:** MiMi, 2B?

10 **MS. GUERNICE:** Okay. This is another  
11 cut on the corrections process. And it focuses on the  
12 90-day window.

13 What it says is, "Can the Board advise  
14 on how the process, notices to parties, and response  
15 deadlines should be structured if EPA determines to  
16 eliminate the 90-day window for finalizing all data  
17 corrections?"

18 **MR. BARNES JOHNSON:** Thank you. And I  
19 think some of our previous conversation touched on  
20 this. But I will turn it over to Tom as our lead  
21 discussant on this issue.

22 **MR. THOMAS BAKER:** Yeah. I think the  
23 only additional point to make in respect to the 90-day  
24 window. I think we mentioned earlier in today's

1 session that there should not be a restriction in the  
2 timeframe at which you could make changes to the  
3 manifest. There certainly are situations where a  
4 manifest change is being made beyond 90 days because  
5 that's the time the waste is being managed. It may be  
6 accepted that the TSDf at the receiving facility  
7 placed into storage and then not actually managed and  
8 treated for some days later.

9 On rare occasions, there could be  
10 changes to make beyond 90 days and those changes  
11 should be made to promote accuracy and things like the  
12 BRS biannual report. I think that's the main point to  
13 make for me, is that 90-day window should be  
14 eliminated.

15 **MR. BARNES JOHNSON:** John?

16 **MR. JOHN RIDGWAY:** I think there should  
17 be at least guidance to suggest changes should be made  
18 within some period of time. And the key here being  
19 guidance. Understanding that sometimes discrepancies  
20 aren't discovered until past 90 days. And if that's  
21 the case there should still be an opportunity for  
22 corrections if it's significant or there's a liability  
23 involved with that incorrect data.

1                   But from a regulatory standpoint, I  
2 think everybody needs to have some guidance to work  
3 around and say you need to do your best to get the  
4 data in and as correct as reasonably allowable within  
5 a certain period of time. My own staff have advised  
6 me that 90 days will not guarantee perfect data. A  
7 year would not guarantee perfect data. In that  
8 regard, rather than make it a hard deadline, I do  
9 think there should be some guidance involved with some  
10 timeframe in mind.

11                   **MR. BARNES JOHNSON:** Cindy?

12                   **MS. CYNTHIA WALCZAK:** I think the  
13 process, the notice, the response should be structured  
14 the same regardless of the timeframe. If the change  
15 is made within 15 days I don't really know why the  
16 notice to parties would be different than if the  
17 change was made in 150 days.

18                   I don't understand why EPA would want  
19 two processes depending on the day on which the  
20 correction was made. And it could be I don't  
21 understand and if you'd like to enlighten me I'm  
22 certainly open to that. But right now I'm of the mind  
23 that we don't need two processes. One process is  
24 fine.

1                   **MR. ROBERT KLOPP:** Cindy, can you help  
2 me understand that? Help me understand what the  
3 current process is?

4                   **MS. CYNTHIA WALCZAK:** I don't know.  
5 But the question asks what should the process be if  
6 they eliminate the 90-day window. Well it should be  
7 what it is. I don't think it really matters if it's  
8 five days or 50 days or 500 days. You still need to  
9 notice the parties.

10                  **MR. THOMAS BAKER:** So Rob, so this is  
11 Tom Baker. The current process for the receiving  
12 facility is to, once a discrepancy is identified it  
13 has to be resolved within 15 days with the generator.  
14 If that's resolved, the manifest is changed and return  
15 copy sent back to the generator and that's the end of  
16 the story.

17                   If the discrepancies are determined,  
18 and these are significant discrepancies, again, ones  
19 of waste code, waste type, quantifies of differences  
20 that are significant, if they're made beyond 15 days  
21 of acceptance of the waste, today there's an  
22 obligation for a receiving facility to file what's  
23 called a discrepancy report or notice to the agency.

1           As I understand it, that has not been  
2 put up for discussion to be eliminated in this e-  
3 Manifest process. Correct me if I'm wrong, Rich, but  
4 that process will need to continue by regulation. I  
5 agree with Cynthia that regardless of the timeframe,  
6 if we're changing data in the system electronically,  
7 we should provide notice to all the parties that are  
8 impacted by those changes. Whether it be within that  
9 15-day timeframe or after that.

10           Discrepancy letters are paper form  
11 letters, unfortunately, that will be sent to the  
12 agency after e-Manifest is in place unless the  
13 regulations are changed. And again, there's not a lot  
14 of letters issued. Our company typically issues only  
15 a handful of those in the course of a year for a TSDF.  
16 It's not a big burden today. But it is something to  
17 understand the process, that there is a paper  
18 notification process.

19           **MR. RICHARD LASHIER:** And you're right,  
20 Tom, that the current regulation is still in place for  
21 the filing of a discrepancy report for the significant  
22 discrepancies. For the folks who may not be familiar  
23 with this, it's 10 percent or more of volume for bulk  
24 waste and any different in piece count for

1 containerized waste. That would give rise right now  
2 to a report. If it can't be reconciled within 15 days  
3 by the parties, then there's a report that goes to the  
4 state director.

5 And so we thinking more about the more  
6 common data errors that maybe didn't rise to the level  
7 of a significant discrepancy being the subject matter  
8 of how do we deal with corrections data in the system.  
9 As opposed to are we going to replace the significant  
10 discrepancy report with something electronic? Because  
11 the issue we have, of course, in doing that, and we  
12 haven't said is, because the enforcement community  
13 will want to have a certain amount of rigor on the  
14 signatures on those documents that we do  
15 electronically.

16 **MS. CYNTHIA WALCZAK:** I thought the  
17 question was more along the line of you all have a  
18 vision of how changes, not discrepancy reports, but  
19 less significant changes will be made in the system as  
20 people become enlightened to things that they did that  
21 they shouldn't have done. And I'm not sure I  
22 understand what EPA is proposing in terms of the whole  
23 process within 90 days. But I just don't know why it  
24 would be different on day 91 as compared to day 89.

1                   **MR. RICHARD LASHIER:** Okay. To  
2 clarify. We received so many comments adverse to the  
3 90-day requirement that it seemed worthwhile to ask  
4 the board to advise. Okay, throughout the 90 days let  
5 changes occur when they may. How do you want the  
6 corrections process to play out in terms of how  
7 notices to parties are provided and how the process is  
8 initiated, completed and what participation do folks  
9 have in the process?

10                   Now I'm wondering how, after the  
11 discussion we had on part A, do you see any role for  
12 this being worked out by regulation at all? Or if  
13 it's all going to be guidance. It would help to  
14 clarify that as well. Because I was thinking here  
15 throughout the 90 days how do you want the rule to  
16 address the process? I think I heard in part A you  
17 don't want a rule, but maybe you want guidance. Maybe  
18 you can help clarify how you wish to see the process  
19 play out if it's done by guidance as opposed to the  
20 detailed rule we proposed.

21                   **MR. THOMAS BAKER:** This is Tom Baker.  
22 We need guidance. We need the EPA to interject what  
23 is the standard. Because within the regulatory  
24 community, we're not going to all agree on what has to

1 be changed without the EPA setting the standard for  
2 what has to be changed, how it should be changed. I  
3 think we need that as guidance. And if that's a Q&A  
4 guidance I think people view those today as EPA  
5 guidance and follow those if they're documented,  
6 either on a website or through EPA letters.

7 I think it could be relatively, I won't  
8 say informal, but the means to communicate them can be  
9 relatively informal as long as it's documented by EPA.

10 **MR. ROBERT KLOPP:** I have a question.  
11 Maybe you guys can help me with this a little bit. In  
12 the previous discussion, what I got out of that was,  
13 if somebody makes a change, regardless of whether  
14 there's a 90-day limit or anything like that, if the  
15 receiver makes a change it could impact the generator.  
16 If a generator makes a change it could impact the  
17 receiver. But that's sort of where the conflict and  
18 the collaboration and negotiation always happens is  
19 between those two? And the reason why I'm going there  
20 is what I think is that it's not clear to me that it  
21 really matters if somebody makes a change, unless it  
22 creates one of these collaborative things, right? If  
23 I just make a change and it only impacts me and



1 doesn't impact anybody else, then I'm not sure why I  
2 need a time limit.

3           There are certain changes that would  
4 generate a collaboration thing and maybe I need to  
5 limit how much time can go on there. I mean imagine a  
6 collaboration that we can't come to a resolution. I  
7 mean how is that handled in this if you can't resolve  
8 it?

9           I just think that there's more thinking  
10 about the business process that has to go on to ask  
11 ourselves is this rule applied only to significant  
12 deficiencies? Does it apply to everything that could  
13 change? Does it apply only to changes where it  
14 generates some collaborative process?

15           I think I would ask you guys to take  
16 this idea and sort of think harder about what the  
17 business process you really would propose this 90-day  
18 thing would control. Because I think there's some  
19 nuance there and we're having a hard time trying to  
20 imagine a blanket 90-day rule that covers every one of  
21 the possible nuanced things, right?

22           It's not that 90 days is bad, but it  
23 might be bad for this and not bad for something else.  
24 I think there's some agreement that we have to have,

1 some incentive, whether it's positive or punitive, to  
2 force people to get these things resolved. I just  
3 think there's some color to this that's missing that  
4 makes it hard to just come up with a blanket answer.

5 **MR. BARNES JOHNSON:** Thanks, Rob. I  
6 want to let Justin jump in here because we missed him  
7 in his role as one of the discussants.

8 **MR. JUSTIN WILSON:** Thank you. Justin  
9 Wilson. A common practice today, and I'm not talking  
10 about the 10 percent weight discrepancy where you  
11 report up to EPA, but other manifest corrections  
12 needed that are not something you're required to  
13 report to the EPA. Common practice today is you write  
14 a letter. You write a statement explaining why you  
15 changed something on your manifest and you file that.  
16 You file it in case an inspector comes on your site.  
17 Okay. They look at your manifest, they see something  
18 lined out with an initial and something else was  
19 added. It's a good practice to have an explanation  
20 filed with that manifest of why you did that. Okay?

21 You may choose to send that same letter  
22 notifying a TSDF. Or you may notify the state because  
23 it's a state that gets copies of your manifest of why

1 you've made this change. And you're notifying them,  
2 I've made this change to my manifest for this reason.

3 My thought is that doesn't need to  
4 change. I don't believe there's a regulation that  
5 says I must write a letter explaining why I made this  
6 change and file it with my manifest. It's just what  
7 we do as a best management practice to protect  
8 ourselves and meet the intent of the law as best we  
9 can if inspected.

10 My recommendation would be eliminate  
11 the 90 days. It's kind of like in most states when  
12 you change generator status you notify them when you  
13 become aware that that has happened. In this case,  
14 you identify that a correction needs to be made, it's  
15 time to make that change and you should, to protect  
16 yourself, document that change.

17 The way I see it is, you go into the e-  
18 Manifest system, you make the change on a manifest, it  
19 documented Justin Wilson changed this on this date.  
20 That's all that's in the system. Okay?

21 If Mr. Hurley is getting a report from  
22 me as a generator and he sees it in there and he's  
23 going to say to me this change makes a significant  
24 difference in the type of report or your generator

1 status. I need to know why you did that. I should be  
2 able to provide Mr. Hurley's agency with documentation  
3 why I made that change.

4 The documentation can be housed by the  
5 generator and whoever the generator believes they  
6 should send that to, to protect their own interests  
7 and their affiliated partners. That's all I'd  
8 recommend. Eliminate 90 days, go in there and make  
9 your changes, document who changed it. But as best  
10 management practice, keep your position in house as to  
11 why you made that change and send it to affected  
12 parties.

13 **MR. ROBERT KLOPP:** Can I suggest that's  
14 another user story. The, in fact, the system should  
15 support the best practice that you just described,  
16 because it's not that hard. If the states or  
17 constituents in the system as well, it's not that hard  
18 to say I'm now looking at my electronic version. I am  
19 going to make a change. I'm going to annotate who  
20 made the change and why. A little window pops up that  
21 says why are you making this change? A little window  
22 pops up that says do you want to send this to the  
23 state?

1 I mean, the fact is let's take the best  
2 practice, that you just described, and build this into  
3 the system. This is how we make the system be  
4 attractive and make everybody start to accept it. And  
5 start making a better practice. That just makes the  
6 whole process better.

7 **MR. RICHARD LASHIER:** If I understand  
8 that correctly that would sort of take EPA out of the  
9 role of having to be the umpire of which one of these  
10 are worthy to initiate some process. The idea is,  
11 yeah, we get the initial signed manifest from the TSDf  
12 and that becomes the initial copy of record. But  
13 anybody who is interested can go in there and make a  
14 change and complete these boxes about why; and do I  
15 want to send a copy to the other interested parties  
16 and the system would then distribute them without  
17 making any judgment at all about which is the better  
18 data. Is that how I understand you? Okay.

19 **MR. JUSTIN WILSON:** And I would agree  
20 that that makes the system more enticing to me as a  
21 generator. I was just saying, if you don't have the  
22 money to add that kind of programming, kind of status  
23 quo today, but if you can it's something we're going  
24 to buy into.

1                   **MR. RICHARD LASHIER:** Because that does  
2 clarify for me where that might go. Because initially  
3 I was concerned that we were talking about we have a  
4 set of data in the national system and people are  
5 keeping their own versions on their internal tracking  
6 systems. And where does that leave the picture in the  
7 national system. But at least it's being handled as a  
8 comment or correction in the national system, so  
9 everybody is aware that there is this collaborative  
10 process going on.

11                   And at least it's represented in the  
12 national system and not there's two different versions  
13 out there depending on whose system you look at. So  
14 that helps.

15                   **MR. JUSTIN WILSON:** Sounds to me like  
16 you bought into Rob's idea. We buy in as well.

17                   **MR. RICHARD LASHIER:** No. I'm  
18 clarifying it. I can understand better. It takes  
19 away some of my concerns about there being these  
20 different views, but then what's in the national  
21 system? I was worried about how we'd reconcile that.

22                   **MR. ROBERT KLOPP:** This kind of stuff's  
23 not hard either. I mean it's really not hard to code  
24 that stuff.

1                   **MR. BARNES JOHNSON:** Okay. Tom, just  
2 as we're sort of fine turning our process here Fred  
3 told me that when I tried to summarize previously the  
4 collective view of the group maybe it would be best if  
5 you -- I think we just actually captured that. And I  
6 would invite you to sort of collectively say what the  
7 joint view is or I'm happy to do it or you can do it  
8 as well.

9                   **MR. THOMAS BAKER:** Are you talking  
10 about 2C now or 2B?

11                   **MR. BARNES JOHNSON:** I'm talking about  
12 2B. Yeah.

13                   **MR. THOMAS BAKER:** My brain was moving  
14 ahead to 2C sorry. Let me double back here. I mean I  
15 think there's consensus on the removal of the 90-day  
16 timeframe for corrections to the manifest. When any  
17 manifest data is changed all interested parties need  
18 to be notified of those changes in some manner. We  
19 heard that we could potentially improve the process  
20 for making manifest changes and guiding the entities  
21 on best how to do those changes and what to keep as  
22 backup documentation potentially. I think the one  
23 thing I'll say as a caveat will be contact your state  
24 for more information because I know all states aren't

1 going to agree on what we're going to decide here.  
2 But EPA can, at least, take the lead in trying to  
3 establish a minimum standard. I think that was the  
4 main points unless I missed anything.

5 **MR. BARNES JOHNSON:** Yeah. And I would  
6 say I think one of the things that I heard from a  
7 number of the panel members is that there's a  
8 preference for guidance on this as opposed to precise  
9 regulatory framework. Rob's idea of having there be a  
10 user story that identifies some capabilities in the  
11 system that help facilitate this correction process  
12 would be something that would be attractive to folks.  
13 I think that was another piece of it.

14 **MR. THOMAS BAKER:** And the guidance  
15 from EPA can be more informal than formal, but it  
16 should be documented.

17 **MR. BARNES JOHNSON:** Right. Okay. Let  
18 me ask the board about how they're feeling. We're  
19 supposed to go to 5:15 today. We can jump into 2C if  
20 everybody is game or --

21 **MR. THOMAS BAKER:** I think we've  
22 already talked through 2C for the most part. So why  
23 don't we go there and I think it will be a short  
24 discussion.



1                   **MR. BARNES JOHNSON:** Excellent. MiMi,  
2 do you want to just tee up 2C for us, please?

3                   **MS. MIMI GUERNICA:** Sure. "Does the  
4 Board agree with EPA's conclusion that only one party  
5 -- the receiving facilities who submit final manifests  
6 to the system -- should have the responsibility to  
7 access the system to enter or submit data  
8 corrections?"

9                   And as Tom noted, and as others know,  
10 we've already had a discussion to some degree about  
11 this in the context of the corrections process where  
12 we just agree that not only the receiving facility,  
13 but the generator should have rights to enter the  
14 system and make corrections. But we're interested in  
15 knowing what other views you have or if there's  
16 additional input that you would like to share with us.

17                   **MR. BARNES JOHNSON:** Tom, please take  
18 it away here.

19                   **MR. THOMAS BAKER:** Sure. I think MiMi  
20 summed it up very well. I have nothing further to add  
21 in the big picture. Just it's an important issue.  
22 Again, we don't want to create an administrative  
23 burden for those involved in manifesting today to have  
24 to monitor a lot of data corrections that might be

1 viewed as unnecessary. I think it's a challenging  
2 issue to address. But the opinions have been that we  
3 need to have multiple parties making those changes,  
4 those that are most knowledgeable and that may not  
5 always be the TSDf in some cases. I think others can  
6 comment on this. I mean, I think we already discussed  
7 it.

8 **MR. BARNES JOHNSON:** Justin, since I  
9 overlooked you first, why don't you jump in?

10 **MR. JUSTIN WILSON:** I would advise that  
11 we eliminate the 90-day window. I don't believe a  
12 timeframe such as that is reasonable. I could foresee  
13 state enforcement agencies, correct me if you guys  
14 don't agree, but I could foresee them if they've  
15 identified a manifest that needs a correction to allow  
16 for appropriate reporting, generator status and things  
17 like that. They may, once they've made you aware,  
18 have a set number of days or a timeline that they  
19 would expect that correction to be made within the  
20 system. Thinking the way that I'm used to inspectors  
21 thinking I wouldn't be surprised by that.

22 That way I don't sit on it for the next  
23 year. It prevents them from moving further through  
24 their own systems.

1                   **MR. RICHARD LASHIER:** Clarification on  
2 that. We used to hear a lot of discussions with  
3 manifest program, people from states who had the  
4 tracking programs, they'd do a lot of QA. They would  
5 see a number on a map that looks totally out of line  
6 in terms of what they understood that facility would  
7 ship. And they would call and get clarification.

8                   If you have a state regulator who gets  
9 clarification by calling a facility and taking issue  
10 with a number on a manifest, can that state regulator  
11 go in and change that in response to that? Or is it  
12 still a generator or TSD that should make the change?

13                   **MR. JUSTIN WILSON:** I would hold that  
14 it's still a generator or TSD issue. Because the  
15 state will never take the liability of making that  
16 change on your document. They're going to hold you to  
17 make that change and I think they're going to give you  
18 a reasonable timeline within to get that accomplished.

19                   **MR. THOMAS BAKER:** This is Tom. I  
20 would appreciate hearing from John and Mike Hurley.  
21 Would your agencies be interested in making manifest  
22 changes based on knowledge of incorrect data? Would  
23 you work with the entities, generator and TSD, to  
24 make those changes on your behalf that you identify?

1                   **MR. JOHN RIDGWAY:** We don't want to  
2 muck up the confusion any more than it may already be  
3 there. In other words, I agree with what Justin  
4 mentioned. We think that the originator of the data  
5 should have the ability to go in and make that change.  
6 If we see something that doesn't make sense, we think  
7 it's just a decimal point, we're going to call them up  
8 right away. And say, hey, is this right? For the  
9 last 10 years you've been giving numbers that are  
10 quite different. And we would expect the generator or  
11 the TSD to make the change. I don't think we want to  
12 get into that.

13                   And I might add, also, that I agree  
14 with what was brought up earlier. In the event of a  
15 disagreement between receiving facility and generator,  
16 if we had just a small popup box on the database where  
17 they can both say in short summary, I'm sticking with  
18 this number, give me a call if you have questions  
19 about that. And it eliminates the need to write a  
20 letter. And it allows for quick identification of a  
21 discrepancy. I think that's a good way to go.

22                   But no, our state would not want to go  
23 in and start changing somebody else's record. That's  
24 really not our role.

1                   **MR. MICHAEL HURLEY:** This is Mike  
2 Hurley. The same. We wouldn't want to change it  
3 either. It's not our record to change. It actually  
4 belongs to the generator.

5                   **MR. BARNES JOHNSON:** Cindy?

6                   **MS. CYNTHIA WALCZAK:** I have no  
7 comment. Just to say I agree. I agree. I think  
8 we're on the same page here.

9                   **MR. BARNES JOHNSON:** John?

10                  **MR. JOHN RIDGWAY:** So John, again,  
11 here. To the point also that Justin brought up  
12 earlier and the notion of guidance. I think guidance  
13 could be out there to say once that discrepancy has  
14 been identified, if it's the state that might see that  
15 for the first time, we would expect a consistent  
16 guidance on making that change in the system by either  
17 the TSD or the generator. So again, I think there's  
18 room for guidance there. Just to help everybody  
19 understand expectations.

20                  **MR. BARNES JOHNSON:** Any other input?  
21 Okay. We've worn them down. I think the answer to  
22 the question is no, the board does not agree that only  
23 one party. They agree that both the TSDs and the  
24 generator -- we haven't talked about transporters much

1 in this, but that's another party that's involved.  
2 But we also clarified that the states generally would  
3 not be the ones that would make these changes. They  
4 may be involved in identifying an issue and raise  
5 that. But don't own the data and don't want to be in  
6 the position of having to make changes.

7 **MR. THOMAS BAKER:** And just to clarify.  
8 I think some folks in the room had commented earlier  
9 in one of the presentations from the public that  
10 agents of a generator would want to make changes as  
11 well. And I think that's reasonable provided they  
12 have the consent of the generator to operate on their  
13 behalf or make changes on their behalf.

14 **MR. BARNES JOHNSON:** All right. With  
15 that I'm going to say we call it for the day. I'm  
16 going to pass it over to Fred for any final words. I  
17 will say, just thank you to the committee again for  
18 your energy and your intellectual engagement here and  
19 some of your thoughts and your expertise and your  
20 willingness to give us this advice. We're really  
21 thankful that you're committing this time for us.  
22 Thank you very much.

23 **DR. FRED JENKINS:** All I have to add it  
24 just ditto to what Barnes just said. Thank you all

1 for a very productive day two. And the meeting's  
2 adjourned for the day and see you all tomorrow morning  
3 and we'll continue finishing the discussion and  
4 deliberating on the charge questions.

5 (Meeting adjourned for the day)

6 \* \* \* \* \*

7

## 1 DAY 3

2  
3 MR. BARNES JOHNSON: All right. Let's  
4 get started here. Fred, I guess I should look to you  
5 to see if you have any remarks to kick us off for our  
6 third and final day of the e-Manifest Federal Advisory  
7 Committee.

8 DR. FRED JENKINS: Yes. Good morning,  
9 everyone. I want to welcome everybody back for Day 3  
10 of our very first meeting of the e-Manifest Advisory  
11 Board. Thank you very much two very productive first  
12 days, Day 1 and Day 2.

13 As I mentioned yesterday evening before  
14 we finished up that today we will spend having the  
15 advisory board deliberate on the final charge  
16 questions that are remaining for the rest of the  
17 agenda. They'll deliberate and provide their advice  
18 per charge question.

19 Without further ado, I'm going to pass  
20 the meeting over to Barnes Johnson, the Chair of the  
21 e-Manifest Advisory Board, also the EPA Director at  
22 the Office of Resource Conservation and Recovery.

23 MR. BARNES JOHNSON: Thank you. Thank  
24 you, Fred. Through the steadfast efforts of the Board



1 yesterday, we were able to plow, I believe through the  
2 conclusion of Question 2C. We are moving forward to  
3 tackle Question 3. Raj Paul is going to be our lead  
4 discussant, but I'm going to ask our EPA  
5 representatives to recite the question, then we'll  
6 turn it over to Raj to lead our discussion.

7           And the other point of order that I  
8 wanted to clarify here at the beginning, and this, I  
9 think part of our learning process as a new Board, I  
10 think it was useful yesterday at the end of each sub  
11 question for us to kind of have a collective  
12 conversation about what the view of the group is. I'm  
13 happy to try to contribute to that, but I think it  
14 would really be most helpful, since the lead  
15 discussant is going to be in the position of having to  
16 at least put pen to paper on this initially for the  
17 Board.

18           I think it would be best if the lead  
19 discussant could try to do that. I wanted to let you  
20 know about that ahead of time, Raj, so that you can  
21 kind of summarize the collective conversation. And if  
22 so, if the sense is that you think the Board has  
23 reached consensus on an issue, you could express that.  
24 If there are some divergent opinions, you could bring

1 that light as well.

2 All right. Take it away, Raj. Thank  
3 you.

4 **MR. STEPHEN DONNELLY:** This is Steve  
5 Donnelly. I'm going to introduce the question.

6 **MR. BARNES JOHNSON:** Yes. Sorry. Take  
7 it away, Steve.

8 **MR. STEPHEN DONNELLY:** What level of IT  
9 support for the help desk is appropriate for launching  
10 the e-Manifest system?

11 What could EPA do to make its help  
12 desk/IT support more efficient.

13 Subpart A: What level of service is  
14 needed for Day 1?

15 **MR. RAJ PAUL:** I think the last two  
16 days we've spent quite a bit of time understanding the  
17 background of the systems. First, I would like to  
18 commend the development team to get to where you are,  
19 given all the constraints you operated under.

20 From a help desk standpoint, Mr. Klopp  
21 brought a lot of interesting observations and  
22 recommendations yesterday. If we focus a little bit  
23 up-screen, from a development standpoint and looking  
24 at that from a user's standpoint, I think the levels

1 of support obviously, is not the center stage from  
2 planning standpoint. Having said that, we are where  
3 we are.

4           Regardless of where you are in the  
5 development cycle, I think I would suggest to relook  
6 at the UI/UX part of it because I think the biggest  
7 challenge in this program is going to be user option  
8 because people have been used to a process for years,  
9 and on paper, to make it a little more easier because  
10 nobody validates what you enter in the paper until  
11 somebody really looks at what it is.

12           Based on what we saw the day before  
13 yesterday, from a UI/UX flow. I think it's worthwhile  
14 to take a step back because it's not a cooling effect  
15 to relook at the UI/UX. I think that could bring down  
16 the user option anxiety problems down.

17           The other things when we observed,  
18 looking at what was presented, it looks like the  
19 current help desk that the EPA has is more an IT  
20 infrastructure kind of a help desk. It's not an  
21 application help desk. Is that right? Just a  
22 clarifying question.

23           **MR. STEPHEN DONNELLY:** Well, currently,  
24 there is no help desk for e-Manifest. I am not

1 entirely aware of an enterprise-wide help desk for  
2 applications. I believe it's (inaudible) for  
3 individual applications and then EPA itself has a help  
4 desk for internal issues.

5 **MR. RAJ PAUL:** Okay. The reason I'm  
6 asking is if you're going to start putting together  
7 help desk from scratch, it's a lot different than  
8 trying to enhance an existing help desk, right, two  
9 different ways of looking at it.

10 I'm giving a little bit of background  
11 to this so that I think it'll help answer the  
12 question, so hopefully it's okay with that.

13 **MR. STEPHEN DONNELLY:** Yes, absolutely.

14 **MR. RAJ PAUL:** The other thing I would  
15 also suggest is the system as a whole, purely from a  
16 technology standpoint, I don't think is complex. I  
17 think the complexity comes in when you're trying to  
18 implement the processes for user option. I mean, it's  
19 a six-form part, you're trying to basically making it  
20 e-fillable, and there are challenges with that.

21 The reason I'm saying this, there are a  
22 lot of ways to do failure mode analysis. I mean, FMEA  
23 is one of those mechanisms. Typically, people do FMEA  
24 for a complex system so that you know if this breaks,

1 what will be the effect of it. Having said that, I  
2 think this system, purely because of the user  
3 complexity that comes into play, it might be  
4 worthwhile to look at the entering process and see if  
5 a planned thing doesn't happen, what will be the  
6 downstream effect because I think that kind of  
7 analysis would help you plan your help desk better.  
8 And that's more important purely because of the hybrid  
9 approach you're going to adopt as well because you  
10 have paper in the mix. So I think hopefully, you have  
11 done that. If not, I think doing that, I would  
12 strongly encourage doing that.

13 From a rollout standpoint, I mean, I  
14 think we touch briefly yesterday if you had a rollout  
15 plan and what the thoughts were. One is a system  
16 rollout at large, but I think that a lot of other  
17 things we can do, I think we talked quite a bit about  
18 MEP. So not knowing exactly where you are on the  
19 development process, I would recommend looking at both  
20 a functional rollout and a system rollout.

21 What I mean by that is the system at  
22 large is going to cater to the generators, the  
23 transporters and the receivers who I would see as the  
24 consumers of the system more purely from a data entry

1 standpoint, I mean, people input into the system. But  
2 then you have another set of users, agencies who can  
3 come in and then look at the system's data using API  
4 services and so on. If you categorize these two users  
5 should get a higher priority. So which means from a  
6 rollout standpoint, you could always delay rolling out  
7 the functionality of the system for the second class  
8 of users. Does it make sense?

9 **MR. STEPHEN DONNELLY:** This is a  
10 clarifying question. So you're identifying that there  
11 are two sort of tiers of users that were initially  
12 going to be engaged in the functional rollout of the  
13 system would engage the people engaged in the  
14 transaction, the industry actors. And then the system  
15 rollout would include states, agencies, sort of the  
16 regulatory side, for lack of a better word.

17 And just to clarify even further, your  
18 endorsing the idea of engaging those industry users  
19 specifically during the system development like UI/U  
20 to do user testing as a sort of preemptive help desk  
21 to have those user stories involved in the development  
22 of the system. So when the system launches the need,  
23 like an acute need for an IT help desk to resolve  
24 issues, for the most part, taken care of. Like, sort

1 of prevention is the best medicine.

2 **MR. RAJ PAUL:** In computing terms, you  
3 ever heard of garbage in, garbage out?

4 **MR. STEPHEN DONNELLY:** Yes.

5 **MR. RAJ PAUL:** Great. So if you don't  
6 focus on well, how people are going to use the system  
7 and what data they're going to enter, then the  
8 consumers of the system are going to not benefit out  
9 of it.

10 And the next one is, I think I briefly  
11 mentioned about life of a transporter. I mean, just  
12 observing how the user is going to use the system,  
13 right. I mean, it's a transporter or a generator,  
14 right, especially the generator.

15 We strongly recommend spending some  
16 time on that as well because these are not big budget  
17 items. It is just spending time with the end user and  
18 trying to give them a pilot version of the project to  
19 try out.

20 Last, but not the least, strongly  
21 recommend having a very formal pilot in this. I mean,  
22 purely based on observations, I think Minnesota was  
23 pretty vocal about some of the way Minnesota does. I  
24 think you could take a state to see how within a state

1 people could use a system end-to-end. And I think  
2 some of the metrics you learn out of that, I think  
3 could be used to plan the help desk better.

4 So now getting into the questions,  
5 there are different levels of support and I think,  
6 depending on the complexity of the system, people  
7 define the levels of support a little different.  
8 Regardless, I mean, the way I would look at the system  
9 levels are the Level 1 support is pure help desk.  
10 People call in, they want a password reset. They want  
11 to understand how to use the system, very preliminary  
12 support of it.

13 Level 2 is a little more application  
14 specific. I mean, how to use the application, and so  
15 on and so forth. And Level 3 is typically the  
16 developers, right. I mean, something is not working  
17 right and now it's all hands-on deck and you want to  
18 give the developers involved. The project may not be  
19 huge, I mean, given the constraints you have been  
20 operating under.

21 So on Day 1, I would suggest planning  
22 all levels of support because the success of this  
23 program will depend on the user option. And you're  
24 not doing a cutoff on this where you're going to say



1 stop using paper, everybody is going to go the new  
2 application way. Since you're not doing that, user  
3 option is very important. So I would overstaff for  
4 Day 1, from a level of support so that users don't get  
5 a bad taste of the system for whatever reason.

6 That's all I have for Question 1 [sic].

7 **MR. BARNES JOHNSON:** All right.

8 Thanks, Raj. So our first associate discussant is  
9 Mike Hurley from Massachusetts.

10 **MR. MICHAEL HURLEY:** I would agree with  
11 everything Raj just said. And I would say further,  
12 you know, prevention is probably the best part of  
13 this, is if you have a finite set of TSDs who are  
14 going to be doing the upload process, is really have  
15 them already doing this as much as feasibly possibly,  
16 before it rolls out because that way you know that  
17 that's all set and you can just let that go. And then  
18 really focus on the Tier 1 issues, which will probably  
19 be the most important because if people feel anxiety  
20 over the functionality of the screens and what-have-  
21 you, that could drive them right back to paper and  
22 then it makes things worse.

23 You really want to be there, sort of as  
24 an ambassador to say come on in, we're here to help

1 you as much as feasibly possible. And make them feel  
2 comfortable so that they're invested in the process.  
3 And even just a little, when they do call you, say,  
4 you know, do you have -- it might be a good idea, at  
5 the same time, to have the help desk able to speak a  
6 little bit about RCRAInfo because they might want to  
7 go to My RCRA ID or something like that, if they don't  
8 have an ID because that will allow them to become more  
9 firmly, sort of invested in the system because it is  
10 more than one piece. And I just see that as being  
11 like the key thing.

12 The TSDs, there's more in it for them.  
13 They will absolutely be onboard already or they should  
14 be. But it's the Tier 1, it's always key on the first  
15 couple of days because all it takes is one person of a  
16 bad experience then tell all their friends and then  
17 there are. But that's what I have to say on that.  
18 Thanks.

19 **MR. BARNES JOHNSON:** Okay. Robert.

20 **MR. ROBERT KLOPP:** Again, I think Raj  
21 nailed it pretty good. I do think that having another  
22 look at the UI with a very focused involvement from  
23 the real-life end users because the help desk is  
24 really expensive. And what you really want to do is

1 see if you can build a system that doesn't require any  
2 help.

3 **MR. BARNES JOHNSON:** Can I ask a  
4 question just for the non-IT?

5 You guys have used this acronym UI. Is  
6 that user interface?

7 **MR. RAJ PAUL:** Yes.

8 **MR. BARNES JOHNSON:** And UX is --

9 **MR. ROBERT KLOPP:** User experience.

10 **MR. BARNES JOHNSON:** User experience.

11 **MR. ROBERT KLOPP:** They're used  
12 interchangeably.

13 **MR. BARNES JOHNSON:** Great. Okay.  
14 Thank you.

15 **MR. ROBERT KLOPP:** But there is a  
16 discipline within the compute world that are people  
17 that are just experts in figuring out how to create  
18 the proper user experience who will watch people  
19 actually use it and see that they're clicking from  
20 this to this, and then say look, here's a way that you  
21 can maybe combine things and combine screens and make  
22 it easier to navigate. So having that kind of  
23 expertise involved would be really helpful. I know  
24 that the 18F folks, they have some user experience

1 expertise and I know that US Digital Services folks do  
2 for sure.

3 So really try to focus on making it as  
4 usable as you can before you get out there. There's  
5 also, I'm not sure how you built the UI, but there's  
6 some really cool stuff that's come out of Google  
7 called material - Material IO. It is a library of  
8 user interface widgets that is supposed to be the  
9 latest and greatest best thinking on the way to do  
10 that stuff, and it's really effective.

11 The cool thing is that most of the work  
12 you've done has business functionality built behind  
13 your UI, and so it probably isn't, you know, given the  
14 time frame, it's probably not death defying in order  
15 for you to maybe think about redoing the UI but  
16 reusing the same functionality underneath it.

17 I think the other thing is that -- and  
18 by the way, let me ask a clarifying question. So in  
19 the hybrid release, is it true that really, the end  
20 users, as far as data entry, is just the receivers,  
21 the TSDs?

22 I mean, who are the end users in this  
23 first hybrid release, that's maybe the question.

24 **MR. RICHARD LASHIER:** Okay. Is this

1 the time to try to clarify some of the issues about  
2 what we mean when we say the hybrid?

3 **MR. BARNES JOHNSON:** Yeah. I mean, we  
4 have a question on the hybrid. So we were having some  
5 discussion earlier that I think we really need to kind  
6 of -- this term "hybrid" has been used in fairly free  
7 form here in this conversation. And there are a  
8 number of different ideas for hybrid constructs that  
9 have been floated both by us at EPA, as well as public  
10 commenters. So you first used the H word, Rob. So  
11 maybe this would be a good time for Rich to kind of  
12 talk about this a bit and try to clarify this issue.  
13 Try and clarify some of the confusion.

14 **MR. ROBERT KLOPP:** That would be  
15 helpful. Absolutely. I mean, the real question is  
16 what level of service is needed? The question is who  
17 am I providing that level of service to? And I'm not  
18 sure I'm not sure I totally --

19 **MR. RICHARD LASHIER:** It depends on  
20 which version of the hybrid you're talking about  
21 because as some folks pointed out yesterday, there  
22 seem to be an inconsistent business case discussion.  
23 When we talked about the hybrid, a couple of different  
24 things going on here. And that actually was

1 intentional. I mean, that's the way it unfolded with  
2 the proposed rule and the comments that we received on  
3 it.

4 So just to clarify if I could, when we  
5 mentioned the hybrid in the proposed rule, we were  
6 thinking about a case where the transporter servicing  
7 a generator and the downstream receiving the services  
8 all were ready to participate electronically. And  
9 there actually was an electronic manifest prepared for  
10 that customer ready to go to handle that chain of  
11 custody tracking. But when they went to the  
12 generator's site, because of the unique challenges  
13 facing generators, both from the standpoint of the  
14 CROMERR implementation and some of the remote sites  
15 involved that the transporter would then prepare a  
16 paper copy for that generator. The generator would  
17 sign it, certify it in ink. The transporter would  
18 likewise sign it in ink to certify that they received  
19 that waste from that generator and leave that copy  
20 with the generator.

21 But under the proposed rule approach,  
22 that was the limited exception to the electronic  
23 workflow just basically carved out for the generator  
24 transaction. Downstream from that point, the process

1 would be carried electronically. The transporter  
2 would already have the electronic format in the  
3 system. They would indicate after they left the  
4 generator that the shipment was now in transport and  
5 they would deliver it to the TSDf or the receiving  
6 facility. The receiving clerk would also sign  
7 electronically, with an electronic signature and then  
8 that would be submitted to the system as the copy of  
9 record of the electronic manifest reflecting the chain  
10 of custody electronically of the shipment and then  
11 that would be held as the copy of record and then  
12 distributed other handlers in the interested states as  
13 the electronic manifest.

14 So that's what we proposed. And then  
15 we got a number of comments from folks, particularly  
16 the Environmental Technology Council and some of their  
17 members commented on it. They came up with a slightly  
18 different version of the hybrid, which has been  
19 discussed -- or it has come up in the discussions.  
20 And I think I can see an area of confusion where folks  
21 might think, oh, this version is a very limited  
22 exception to the electronic workflow that EPA  
23 discussed our proposed rule. And there's a much more  
24 comprehensive exception for the Phase I of the hybrid

1 or the ATC approach.

2                   What I mean by that is under the  
3 comments that we received from the industry members,  
4 the Phase I that they have in mind -- the current  
5 paper process would operate entirely as it does now.  
6 The multi-copy paper forms would still be carried with  
7 the trucks. So not only would the generator retain a  
8 paper copy signed in ink, but the transporter would as  
9 well. If there were subsequent transporters, those  
10 copies would be signed in ink and a copy pulled off  
11 for the delivering transporter. And then most  
12 importantly, when it go to the receiving facility, the  
13 receiving facility clerk, at the time the shipment is  
14 delivered to acknowledge receipt, that receiving  
15 facility or clerk would also sign in ink and give that  
16 ink-signed copy to the transporter, which they would  
17 then keep in their files.

18                   And then perhaps, later that day or  
19 days later, the EH&S staff at the receiving facility  
20 would then look at all the ink-signed manifest they  
21 had received and do a batch-up load, perhaps, with an  
22 electronic signature to the system, uploading all that  
23 data for those shipments to the e-Manifest system. So  
24 under the Phase I approach to the ETC's comment



1 version of the hybrid, the transaction remained in the  
2 chain of custody that is the business of the manifest  
3 is still carried out with paper and ink-signed  
4 documents. And only after the manifest has been  
5 completed and everyone has signed off in ink at the  
6 backend, the back-office staff at the TSDF would then  
7 do an upload of the data to assist them and sign it  
8 electronically.

9 So basically, there are two TSDF  
10 signatures; one in ink at the receipt of the shipment  
11 and one later to upload data to the system.

12 **MR. ROBERT KLOPP:** And I think I've  
13 been assuming that the process you've just described,  
14 which is paper until the very end is what I thought  
15 was the -- that was the hybrid.

16 **MR. RICHARD LASHIER:** I mean, they have  
17 similarities, but the ETC comment version is actually  
18 more tolerant of paper continuing than the proposed  
19 approach. It basically assumes the entire chain of  
20 custody tracking would be carried off on paper still.  
21 And then there's just a back-office upload of data  
22 signed electronically to the system.

23 Then that leads to Phase II under the  
24 ETC comments, in Phase II, we would then try to bring

1 the generator community into the fold. They would  
2 attain access credentials to the system, at least to  
3 obtain copies from the system electronically, rather  
4 than having to mail those copies.

5 Under Phase I, everything continues on  
6 paper. In Phase II, we then bring the generators into  
7 the fold so they can then receive their copies back  
8 electronically rather than through the mail. And then  
9 Phase III under the ETC could be all the heavy lifting  
10 of getting everybody to do everything electronic.

11 **MS. CINDY WALCZAK:** Can I ask for a  
12 point of clarification? In your discussion of the  
13 hybrid approach, you mentioned several times that it  
14 was industry approach. It was ETC's suggestion. But  
15 the fact is, there's two impediments to a fully  
16 electronic system that are not imposed by industry,  
17 but rather by EPA itself. And that is the enforcement  
18 issue and the CROMERR issue.

19 **MR. RICHARD LASHIER:** Right.

20 **MS. CINDY WALCZAK:** And to say that the  
21 generators or the regulated community is the reason we  
22 can't go fully electronic out of the box, I think is  
23 not quite accurate. I think EPA understands -- I  
24 think everybody understand that CROMERR -- imposing

1 CROMERR on people who sign manifests is not workable.

2 MR. RICHARD LASHIER: Okay.

3 MS. CINDY WALCZAK: And I think, too,  
4 that the fact that EPA Enforcement wants ink  
5 signatures is the roadblock. I don't think industry  
6 is the roadblock here.

7 MR. RICHARD LASHIER: Okay. When we  
8 devised the language for the proposed rule on the  
9 hybrid, with the limited exception for the generator  
10 part of the transaction, it was an acknowledgement  
11 that CROMERR was certainly going to be a likely  
12 impediment for folks in that setting to participate  
13 electronically to sign the manifest with the two-  
14 factor authentication, which is the classic method  
15 under CROMERR.

16 We saw that as being the primary  
17 impediment to the user, that would be initially, at  
18 that generator level. Now, in our thinking, we  
19 could've been wrong about this. At our thinking at  
20 the time, we thought that the transporters and the  
21 receiving facilities that are in the hazardous waste  
22 business, since they have a much greater day-to-day  
23 involvement with the manifest and the system, that  
24 they would not be as challenged in having to recall

1 their password and a personal challenge question when  
2 challenged by the systems.

3 We didn't see the implementation of  
4 CROMERR by the transporters who were regular members  
5 of the hazardous waste industry and TSDFs who have  
6 people whose job it is to do these things day in and  
7 day out. That they would be as challenged to do a  
8 two-factor authentication. So we honed in on the  
9 generator as being the primary impediment and tried to  
10 at least preserve a way that there still could be an  
11 electronic manifest, a chain of custody tracking  
12 performed electronically under the hybrid.

13 And the ETC comments basically said  
14 well, let's back off a little bit more on Phase I.  
15 Let's keep the paper process, get something up  
16 quickly, which we acknowledge is a very strong  
17 advantage. Get something up quickly that gets us a  
18 running system. Complete data from all manifests if  
19 we're going into a data system, and then work on some  
20 of those other impediments and challenges in Phase II  
21 and Phase III.

22 That is basically the ideology that we  
23 proposed, acknowledging some significant problems with  
24 CROMERR. Receiving comments and on the proposed rule

1 which is all fair game. They have comments on a  
2 proposed approach and then alter our approach for the  
3 final rule. They came up with a view that maybe we  
4 should back off a little more on Phase I and work on  
5 those issues as Phase II and Phase III.

6 I think we acknowledge, as a rule here,  
7 and we wanted to ask you all, as members of the  
8 advisory board, when you do the charge questions for  
9 the hybrid to evaluate the advantages of those two  
10 approaches and help us reconcile the comments.

11 Because the other comments we got on the hybrid were  
12 the problem of having a paper manifest exist for part  
13 of the transaction and then having the rest of it  
14 carry off electronically. That's going to create some  
15 disconnects, particularly for the generators.

16 How are they going to be able to  
17 participate in that corrections process later on if  
18 they're still looking at piece of paper? Are they  
19 going to be able to participate intelligently in a  
20 corrections process? Are they going to be able to go  
21 online and pull things off their email that are wrong  
22 when they get a final copy for the TSD?

23 Those are the kinds of issues we heard.  
24 And we heard some strong comments from the states,

1 like Joshua was concerned that basically we would be  
2 creating a system where there would be no incentive  
3 for generators ever to give up paper. And that was an  
4 exceeding comment we heard. Those are the things we  
5 wanted you to think about as had the discussion about  
6 the hybrid. Understand, there were two versions: the  
7 proposed version, the version discussed in the  
8 comments, particularly the Phase I, which gives us  
9 something to work with initially. And then was there  
10 a way that we can work through those comments about  
11 how do we get beyond Phase I and do something more  
12 robust as a chain of custody.

13 **MR. BARNES JOHNSON:** Thanks, Rich.

14 Okay. Thank you.

15 Just to bring us back here, we have a  
16 question on the hybrid issue later today. So this  
17 discussion was for the purposes of clarifying our  
18 conversation regarding the key question is what is the  
19 level of service needed on Day 1.

20 **MR. SCOTT CHRISTIAN:** May I answer Mr.  
21 Klopp's question on the level of service for Day 1  
22 based on how we have developed the system so far?

23 **MR. BARNES JOHNSON:** Sure. I want to  
24 bring Cindy back into this as well because she wanted

1 to make a point.

2 **MR. ROBERT KLOPP:** So just to be clear,  
3 part of what I really am also looking for is who are  
4 the users and what business functions are they going  
5 to be doing in whatever version of the hybrid you  
6 think right now is sort of the plan of record.  
7 Because the real question about services, what level  
8 of help desk services are required for those people  
9 doing that business function?

10 **MR. BARNES JOHNSON:** So Scott Christian  
11 is going to help here.

12 SC: Thank you. When we start  
13 building, we start building with the TSDf start out  
14 first and then go out. We quickly realized that the  
15 same information could be showed and demonstrated and  
16 started by the generator or broker.

17 The generator and broker, they have  
18 their own view that they can go and they can edit  
19 manifests, either through the APIs or through the  
20 frontend. And then also the TSDf focus -- Rich --

21 **MR. BARNES JOHNSON:** Scott. Can you  
22 bring the speaker closer to your mouth so that we can  
23 pick it up.

24 SC: So the TSDf so that they can then

1 bring that data in and submit it electronically, as  
2 Rich just described. So the generator will have, on  
3 Day 1, because they already do in the system, the  
4 ability to look at their manifest, edit their  
5 manifest, create their manifest and review.

6 **MR. BARNES JOHNSON:** Okay. Rob, back  
7 to you. Any more discussion regarding Question 3A?

8 **MR. ROBERT KLOPP:** No. I think the  
9 only thing I would say is that if this thing is not so  
10 easy -- given the clear mandate to never let the  
11 administrative process slow up the shipment of waste,  
12 I think that if this thing is not just dead easy to do  
13 right from the beginning, it doesn't matter if you  
14 have a help desk, nobody is going to call the help  
15 desk, they're just going to reach for paper.

16 I really think that -- I guess my  
17 concern is if they have to call the help desk, then  
18 you've already failed.

19 **MR. BARNES JOHNSON:** Okay.

20 **MR. STEPHEN DONNELLY:** This is Steve  
21 Donnelly. I have a follow-up question for the Board.

22 **MR. BARNES JOHNSON:** No.

23 **MR. STEPHEN DONNELLY:** No?

24 **MR. BARNES JOHNSON:** No, Steve. Not



1 yet.

2 **MR. STEPHEN DONNELLY:** Not yet.

3 **MR. BARNES JOHNSON:** Okay. So we're  
4 going to now open 3A up for broader discussion with  
5 other members of the Board if there are any other  
6 points on this question that folks would like to  
7 offer.

8 Yes, John, please.

9 **MR. JOHN RIDGWAY:** Thank you. A couple  
10 of quick thoughts here. Relative to a help desk, in  
11 Washington, we annually bill about 35,000 generators  
12 and we have a help desk. And when that bill goes out,  
13 the phones light up. A couple of practical lessons.

14 Be prepared to handle after-hour calls  
15 or weekend calls because that may be when the only  
16 time people can call. I would suggest the staff be  
17 prepared to answer questions or guide transporters. I  
18 would expect they will also call and have questions.

19 I would expect there will be questions  
20 about the fees, not just the system use. You should  
21 have the ability to, as quickly as possible, call  
22 people back. Lines can get dropped, overwhelmed.  
23 Other just call logistics cannot go according to plan.  
24 In the first few hours or days, you could get swamped

1 with 1,000 calls, perhaps.

2 The user desk staff should absolutely  
3 be part of the testing. They should know the system  
4 extremely well. And we've heard this before, but  
5 reiterate, they should have the ability to get into  
6 the system and edit records if requested by, or  
7 certainly be able to help the caller be able to do  
8 that online so that they can see, for lack of a better  
9 term, some instant gratification through that service,  
10 as we've heard.

11 If that doesn't happen, the frustration  
12 level is already running pretty high. And then if  
13 they can't see some sort of progress in that  
14 engagement with the help desk, that may be kind of the  
15 last straw and they just slam the phone down and tell  
16 somebody to go for the paper.

17 Those are my initial thoughts. Let's  
18 see if there's anything else here. I would assume --  
19 this is kind of indirect, but again, the statement  
20 that if they got to call the help desk, then we've  
21 already kind of lost the strategy. So as much as you  
22 want the system to be dead easy -- and I agree with  
23 that absolutely -- the help desk people need to have  
24 some, frankly, very good skills at displaying

1 competence and patience.

2 And then lastly, I think they should be  
3 familiar with CROMERR and how that will apply or not,  
4 given the different variations on this hybrid theme.  
5 They need to be the experts. So sometimes when you  
6 contract out with others and they haven't been  
7 involved with the development and the testing and seen  
8 the problems, you can't just go out and buy that  
9 quality of service. These need to be people who kind  
10 of been, at least some of them, supervisors or lead  
11 staff people. They need to know the inner-workings if  
12 you're going to be able to provide quick quality  
13 service and/or a backup plan to get somebody to call  
14 these people right back. And I mean within minutes to  
15 hours, not days to weeks, if it's going to be worth  
16 its while. I'll leave it at that.

17 **MR. ROBERT KLOPP:** Hey, John, I have a  
18 quick question. If you guys already have a help desk  
19 and already has a relationship with all of the people  
20 that are in those business processes, does it make  
21 more sense to outsource this help desk functionality  
22 with the states or whatever states have some  
23 relationship and train your folks up as opposed to  
24 trying to build a brand new help desk from scratch

1 with a whole bunch of brand new people, which is  
2 actually a very expensive proposition that could --

3 **MR. JOHN RIDGWAY:** It's a great  
4 question. And no, we don't. We use our staff that  
5 work with the state year-around. They are the ones  
6 that are working overtime over the weeks when these  
7 billings go out. It is our full-time staff that are  
8 leading our help desk. We do not want to contract out  
9 if we can avoid it. For one simple reason, that when  
10 you contract out, sometimes it's hard to get all the  
11 access to the network so that they can get in and --

12 **MR. ROBERT KLOPP:** What I'm asking is  
13 would your state be willing to take a contract from  
14 EPA --

15 **MR. JOHN RIDGWAY:** Oh.

16 **MR. ROBERT KLOPP:** -- to provide this  
17 functionality for e-Manifest, since you've already  
18 have relationships with all of the people that are  
19 involved in the business process?

20 **MR. JOHN RIDGWAY:** It's a good  
21 question. I really can't make sure an answer to that  
22 just because I'm talking about a staff of about six  
23 people. We bring in temporary help about a month in  
24 advance to train them up. We'll bring in another two

1 or three. We're working with about 10 people for  
2 those 30 or 40,000 bills of which maybe five to 10,000  
3 calls may come in over that time. And it's different.  
4 Understanding that a lot of people will see these  
5 bills for the first time and they don't know why  
6 they're getting it. They think it's a new tax or fee  
7 and we have to manage that frustration.

8 I'm assuming with this e-Manifest  
9 proposal that EPA will do everything possible to  
10 contact all 400 of the TSDs in advance. I would  
11 suggest that. I mean, have a checklist and check them  
12 off and make sure they understand what's going on and  
13 have a chance to test in advance so that the anxiety  
14 level and surprise factor are as low as possible.

15 That's it.

16 **MR. BARNES JOHNSON:** Tom, I know you'd  
17 like to make a point.

18 **MR. TOM BAKER:** Sure. Just a simple  
19 comment. I think it's valuable to benchmark other  
20 successes or even failures within the government when  
21 they rolled out software and had to have a help desk  
22 to maintain it. Just one comes to mind that I  
23 interacted with in the last year, in the Department of  
24 Homeland Security, they've rolled out some new

1 software to manage their chemical facility, anti-  
2 terrorism standards. I found that help desk to be  
3 very accessible and useful. I think the message is  
4 try to benchmark off what's good and bad elsewhere and  
5 learn from it.

6 **MR. BARNES JOHNSON:** Okay. Yes. Cindy,  
7 please.

8 **MS. CINDY WALCZAK:** I think it'd be  
9 great if EPA answered the phone right away. It would  
10 be great if there was a goal of five minutes. I think  
11 that's not realistic. As an alternative, I would  
12 suggest something like Delta on a bad day, you call  
13 and they say we'll call you back. You can wait on  
14 line or we'll call you back, but your wait time is  
15 going to be six hours.

16 And if I got that answer, I know that I  
17 need to do something else. And so I might call Veolia  
18 and say hey, would you give me a screen shot of this  
19 manifest so I can see what's going on because I lost  
20 access to my password and EPA is not going to get back  
21 to me for six hours.

22 I think if we know when we're going to  
23 get help, if that period of time is too long, we can  
24 look at other options. But just to call and be put on

1 hold, wait an hour, then have a dropped call, I think  
2 that would be very problematic and I would rather have  
3 a computer tell me that EPA is going to call me back  
4 in six minutes or six hours.

5 **MR. JOHN RIDGWAY:** So you can use Delta  
6 and we'll have frequent shipper rewards.

7 **MR. BARNES JOHNSON:** Okay. I'm  
8 thinking we should maybe move on to 3B. Raj. Is the  
9 Board okay with that?

10 **MR. RAJ PAUL:** You want me to  
11 summarize?

12 **MR. BARNES JOHNSON:** Yes. Would you  
13 like to summarize 3A?

14 I'm sort of wondering whether maybe  
15 these are all so close together. Maybe we summarize  
16 at the end of -- you know, once we go through 3 a, b,  
17 and c.

18 **MR. RAJ PAUL:** It would be easier.

19 **MR. BARNES JOHNSON:** It would be easier  
20 to do. Raj, why don't you summarize where we are on  
21 3A? That would be great. Thanks.

22 **MR. RAJ PAUL:** Sure. I think the  
23 consensus on 3A is to overstaff it, meaning, not in  
24 terms of numbers, but anticipate all kinds of issues,

1 including non-system related issues like user fee and  
2 so on. So that you're going to reduce the user  
3 option, as IT's would call it.

4 **MR. BARNES JOHNSON:** I'll just add to  
5 that a little bit if you don't mind, Raj, of some of  
6 the things that I heard. I think we heard a lot about  
7 the user interface and how important that is. How  
8 important the engagement with the tool is and how easy  
9 that is and how well that's designed and having  
10 expertise available to really make that engagement  
11 work better so that the flow to the help desk is  
12 perhaps, less mitigated.

13 We heard the point from Rob, which is a  
14 good one, which is -- and this is sort of what Cindy  
15 was implying as well, with the system never being an  
16 impediment to waste movement, and paper being an  
17 option. That it's worth just keeping in the back of  
18 our mind. That a call to the help desk is likely  
19 going to, may, in many instances, be a diversion to  
20 paper. And so that's not really a great outcome, so  
21 we should keep that in the back of our mind.

22 I know John had a number of very  
23 practical kind of recommendations about trying to get  
24 back to people as soon as possible. Cindy added, if



1 you can't get back as soon as possible, at least be  
2 very clear about when you are going to get back. The  
3 idea of having after-hour ability. Having competence  
4 and patience. The idea of having CROMERR familiarity.  
5 So those are some of the things, just to add to what  
6 you had said.

7 Does anybody disagree? I think that  
8 seem to be in line -- okay.

9 Steve, could you take us into Charge  
10 Question 3B?

11 **MR. STEPHEN DONNELLY:** Absolutely,  
12 Barnes. This is Steve Donnelly. What level of  
13 personal vs. automated support is ideal?

14 **MR. BARNES JOHNSON:** Take it away, Raj.  
15 Thank you.

16 **MR. RAJ PAUL:** Thank you. So given the  
17 way we discussed 1A, I think Day 1 or at least initial  
18 option, I wouldn't recommend any automated way.  
19 Rather it's got to be people, we're talking to people.  
20 But as things mature, obviously, you can slowly  
21 migrate to more automated ways because technologies, I  
22 mean, there are so many ways you can do automated  
23 support. But I would plan for personal support and  
24 not automated.

1           But having said that, I think the help  
2 desk should be planned in a way where at launch you  
3 can have more like an FAQ with common problems which  
4 people could encounter in the system, which could be  
5 launched as part of your system help page or however  
6 you want to roll it out. But over time, you could  
7 also start building a knowledge base, based on the  
8 questions people ask to the help desk so that it's  
9 more of an evolutionary thing so that you can slowly  
10 get away from people getting involved and then more in  
11 automated ways.

12           **MR. BARNES JOHNSON:** Thanks, Raj.

13           **MR. MICHAEL HURLEY:** I would agree with  
14 that. In the rollout, you really want to have that  
15 personal contact because one, you want to solve the  
16 problem, but two, it's a selling point for the system  
17 and it makes people that someone cares.

18           And two, especially at the rollout, you  
19 want to start to absorb the user's narratives. Like,  
20 why are they having a problem? Is it the UI? Is it  
21 confusion over the rule itself? That would be really  
22 helpful when you start to compose your FAQs. But also  
23 it develops the knowledge base. And so that way when  
24 you do move to automation, you can leverage that and

1 say well, you know, here are the common questions.

2 I really think, too, if you have it  
3 automated at first rollout, people will be put off by  
4 that and they'll just feel like they're dealing with a  
5 bunch of robots and they'll go back to paper because  
6 it's something more tactile they can really work with.  
7 Those are my answers.

8 **MR. BARNES JOHNSON:** Thanks, Mike.  
9 Rob.

10 **MR. ROBERT KLOPP:** So I think I have a  
11 different view. I mean, I think that some of the  
12 reaction to automated is a reaction to old bad  
13 automated. And the fact is that there is good  
14 automated coming out today with things like Chatbots  
15 and stuff like that. But I think that if you think  
16 about a variety of different ways that you could  
17 automate help, starting with a little question mark  
18 button by every field that you could enter where you  
19 could just hover over it and get some more detailed  
20 information so that you can get instant feedback to  
21 simple questions that maybe goes to another level that  
22 is a context-sensitive FAQ thing that sort of knows  
23 where you are in the document in the electronic  
24 manifest so that you if then click a button to ask for

1 help that you might get another level of sophisticated  
2 response that might provide you the answer instantly.

3 That if you don't get the answer you  
4 want instantly from these two sort of built in things  
5 that maybe there is a level of help that is a text-  
6 based chat kind of a help so that you instantly can  
7 get a response from somebody, you know, via an SMS  
8 message or a text base kind of a thing. And it sort  
9 of builds up to the point where it's only when you get  
10 there that you have to make a call. I think that if  
11 you think about help as being this continuum of things  
12 and what you try to do is get people the help they  
13 need as quickly as possible, I think that you're going  
14 to have a lot more success.

15 I mean, I honestly believe that unless  
16 there is instant response on the phone, with really  
17 skilled people that can answer every question  
18 extremely quickly, every time, the help desk is just  
19 not going to work because again, the people will just  
20 go to paper. The minute that they have the experience  
21 of okay, I couldn't get the answer I need, now I have  
22 to make a call, and even if I use Delta and the thing  
23 says the waiting queue for you is 10 minutes, no one  
24 is going to wait 10 minutes. They're going to hang up

1 the phone and pull out the paper form.

2 I really honestly believe, kind of  
3 going back to the first thing, that you need to focus  
4 on making this thing so effective, both starting with  
5 the user experience but then providing a variety of  
6 help capabilities that are really instantaneous and  
7 automatic. That I just think you run the risk of  
8 losing people every time before they're ever going to  
9 go and talk to a human being. So that would be my  
10 advice and feedback.

11 **MS. CINDY WALCZAK:** I'd like to comment  
12 on something that Robert indicated, which is nobody is  
13 going to wait 10 minutes. I think we would. And I  
14 say that because manifests, we don't do manifest spur  
15 of the moment. We do manifests at least a day ahead  
16 of time and probably longer than that. Again, if I  
17 want to go into the system and I can't get in, I can  
18 wait 10 minutes for EPA to call me back and help me  
19 get in.

20 And then I think, too, I don't object  
21 to automation to direct calls. So press 1 if you need  
22 a password rest. Press 2 if you have other problems,  
23 you know. Press 3 if you want to talk to Stephen. So  
24 I don't object to automated systems directing calls.

1 I like the websites that have a pop-up  
2 window, how can we help you? But I'm not sure that  
3 that's realistic in this case. I think it's something  
4 to explore, but it might be overwhelming. I don't  
5 know if EPA can afford to have people sitting around  
6 waiting to have a chat with users. I'm not sure -- it  
7 doesn't seem very government like to me. The private  
8 industry makes it work. I'd like you to look at them;  
9 not sure it can work.

10 **MR. ROBERT KLOPP:** It's usually the  
11 same people that would be answering the phone, they  
12 just also have a chat window on their call center  
13 thing. It's the same people.

14 **MS. CINDY WALCZAK:** So I think most of  
15 us are looking at the call center as telephone. But I  
16 think younger people, myself included, would rather  
17 have a chat.

18 **MR. BARNES JOHNSON:** Okay. Other  
19 members of the Board to weigh in here? John.

20 And then I'm going to ask EPA to see if  
21 they have any clarifying questions.

22 **MR. JOHN RIDGWAY:** To me, the scale of  
23 a help desk, whether this is relative to a or b is,  
24 you know, the target audience. If we're talking to

1 TSDs, and that's a universe, as we've heard, of around  
2 400, that's pretty manageable. That's a good size  
3 that you ought to be able to support pretty quickly.  
4 They're not all going to call with questions.  
5 Certainly, a lot will, but it's not like they're  
6 dealing with a deadline here.

7           They should have some patience and they  
8 certainly know what's going on in advance. But if  
9 it's the generators, I think that's an entirely  
10 different population and I would expect that they are  
11 going to need an extra degree of support and patience.  
12 So I would kind of throwback whether you envision this  
13 help desk to be equally supportive of the TSDs and the  
14 generators or focus more on one over the other. I  
15 haven't heard, so I'm kind of curious on what your  
16 thoughts are on that.

17           **MR. STEPHEN DONNELLY:** Well, the help  
18 desk has not been stand up yet, and this is part of  
19 the development of what we want to stand up of what we  
20 want the help desk to look like. We are going to be  
21 responsive to our user's needs. And I do have a  
22 clarifying question to the Board.

23           I just want to ask, sort like,  
24 overarching, I'm hearing that getting out ahead of the

1 system launch is the best. So we're talking about  
2 working ahead of the time, proactively with users. So  
3 if we could discuss a little further or just clarify a  
4 little more. Would you say testing groups -- so could  
5 we talk about what are the size and the composition of  
6 these user testing groups that will be using the user  
7 interface? What is their purpose? What is the best  
8 way to engage them?

9 And also, we're going to have a  
10 significant section of the user community who will not  
11 be using the user interface; they'll be submitting  
12 manifest information via API. So could we talk about  
13 testing with them to make sure that we want all of our  
14 stakeholders engaged. Like doing what Raj said, you  
15 know, we're going to have sort of two user sites.  
16 Users, we're concerned about primarily. The state  
17 users, the regulatory piece, and then the people that  
18 will be putting the manifest data in.

19 So how do get out ahead of this so the  
20 help desk is almost ceremonial when the system  
21 watches. If we talk, the Board, I'm asking you all to  
22 build us two distinct user testing groups and tell us  
23 your recommendations for how often they should meet,  
24 how we should meet them. Just discuss away. Thank



1 you.

2                   **MR. ROBERT KLOPP:** You know, I think if  
3 we get back to how we started with on Day 1, which is  
4 a more agile, regular, i.e., weekly, you know,  
5 interaction with the users as part of the Agile  
6 development process, sort of makes these separate  
7 testing groups not required because in fact, what you  
8 have is an embedded, ongoing testing group that's  
9 there all the time. If you can't get to the point  
10 where you have these people embedded, testing all the  
11 time, then I think you have to think about separate  
12 user testing groups. But my advice is that when you  
13 start making moves to have these people become more  
14 embedded right from the beginning so that some of  
15 these problems go away.

16                   The other thing I think I would say is  
17 it's probably useful for you to establish some  
18 objectives, right, for how many -- I mean, every time  
19 a user comes in and you can see them struggle, you can  
20 ask yourself, how am I going to change the application  
21 so they don't struggle? And one answer might be I can  
22 change the user experience. One answer might be I can  
23 build in some help functionality that's automated.  
24 But I guess my point is that in the end, having them

1 call the help desk is a defeat, right. And that you  
2 need to really track that as a measure of success of  
3 the application rather than assume that you can be a  
4 little bit sloppy and the help desk is going to just  
5 cover that, right.

6 Did I get all your questions? I'm not  
7 sure if I got them on.

8 **MR. RAJ PAUL:** I'd like to add this  
9 also. A little bit speculative here. Based on what I  
10 saw with Mr. Scott presenting the screen flows, I  
11 agree with Mr. Klopp that you have to make this into  
12 your development process, right, so that you don't  
13 have to have a special testing later on or plan a help  
14 desk for the matter.

15 Based on what I saw the day before  
16 yesterday, if the system is at a point where you built  
17 most of the functionality, I would recommend at this  
18 point, maybe talk about two tiers of users. From a  
19 UI/UX standpoint, there are a lot of ways, I mean, as  
20 Mr. Klopp said, there are specialized skillset. All  
21 they do is storyboarding and inquire frames, deal with  
22 the user. Try to work them with mock screens and so  
23 on.

24 If the supporting functionality in the

1 system has been implementing, right, changing UI/UX,  
2 even at this stage in the game, is doable. It's not  
3 heckling task. One level of testing could be going  
4 back to your screens. And having a real users,  
5 specifically a generator use it, and sit with them to  
6 understand -- observe their struggle points, rather.  
7 If they are not able to navigate through the screens  
8 at ease, going back to what Mr. Klopp was saying, you  
9 can actually then decide how do you want to have your  
10 help screens and do you want to change the flow of  
11 your screens and so on. Those could be done, even at  
12 this point in time.

13 As far as state-regulatory boards who  
14 are going to deal with APIs and so on, given the two  
15 classes of users, I would be least worried about it.  
16 I mean, I should be worried about it, but compared to  
17 the two, because the it's the system, which is using  
18 your system in those cases. I mean, nobody is writing  
19 code to access an API, right. They're building a  
20 system to access your system APIs.

21 In that regard, you really don't need a  
22 pilot, per se. I mean, if your APIs are not really  
23 explanatory, then obviously, somebody is building a  
24 system to track it, and the system is going to

1 struggle using it.

2 Those I would think where, I think,  
3 Steve, your team will get involved. It's not a help  
4 desk to understand what the struggle points are. So  
5 it's two different ways of looking at it, to answer  
6 the question.

7 **MR. JUSTIN WILSON:** Justin Wilson.  
8 Stephen, what I heard one thing you asked was  
9 basically how do you find a test group? Who are they?  
10 Who gets involved; is that correct?

11 Okay. I don't know how this will be  
12 received, but I'm going to throw it out there. I feel  
13 that the members of this Board are obviously very  
14 passionate about the success of this program as we  
15 individually applied to being members of this Board.  
16 I think that we represent all of the users pretty  
17 well, or at least have direct contacts. When I say  
18 users, I'm talking about manifest users, not  
19 necessarily some of the IT side.

20 I would propose that each of the Board  
21 members recommend or select representatives from  
22 industry to work as testers with your group. And just  
23 to throw it out there, it would not be me, personally.  
24 I actually have people that would do a better job and

1 understand them. Like I had mentioned yesterday, A-Z,  
2 better than I that I would have represent on my behalf  
3 or our behalf.

4 As far as a number of people that each  
5 of us select, I think that's kind of up to you guys on  
6 what you think you can handle. And then I'm thinking  
7 we would select folks that can travel to you, maybe  
8 monthly. Because this is important. You know, we're  
9 only talking a little over a year to get this rolled  
10 out. Maybe quarterly. And then you guys can have  
11 webinar type meetings, you know, more frequently than  
12 that. But I think it would select folks that have the  
13 ability and the funding to travel.

14 **MR. BARNES JOHNSON:** Thanks, Justin.  
15 Tom.

16 **MR. TOM BAKER:** So I just want to go  
17 back to the initial question about personal vs.  
18 automated support and just stress one point. From our  
19 perspective, the support has to be highly personal,  
20 initially, and highly responsive. To paint a picture  
21 of the industry, I think it's a very impatient  
22 industry.

23 As a services business, you know,  
24 trying to service customers of ours in a very timely

1 manner at a low cost, so any delays on site, we've got  
2 a very narrow window to do pic-ups of waste at certain  
3 client's sites. Some may be retail facilities, some  
4 might be industrial sites. Any delays in having to  
5 not be able to initiate an e-Manifest will be very  
6 problematic and it'll certainly put a negative light  
7 on the industry, the services industry as a whole and  
8 folks will quickly turn away from an e-Manifest  
9 solution.

10 On the receiving facility end, the very  
11 busy facilities, you've been to a couple of them, I  
12 know. And the trucks are being received in quick  
13 order and delays in being able to receive a shipment  
14 that's electronic will cause issues with storage  
15 permit compliance. We have hours, sometimes, hours to  
16 unload trucks and stay within our permit conditions.

17 I just want to stress the fact that  
18 we're not patient and can wait for a callback. I  
19 think, especially early on in the process, it's got to  
20 be very personal and very responsive.

21 **MS. MIMI GUERNICA:** Hi. This is MiMi  
22 Guernica. If I can just ask a clarifying question  
23 that relates to 3B, automated support vs. personal.

24 **MR. BARNES JOHNSON:** Please. Yeah,

1 please. Please, MiMi.

2 **MS. MIMI GUERNICA:** Could you give me a  
3 sense of the demographics of the industry and their  
4 comfort level with technology?

5 **MR. TOM BAKER:** I can speak on behalf  
6 of the vast majority of the service industry piece.  
7 You know, we've invested a lot of money into our own  
8 technology. You know, most of our services, for  
9 example, we're doing manifest, either preprinting it  
10 in our facility to show up at a customer site to have  
11 them sign it and be moving very quickly and label the  
12 containers, but more commonly, our company is bringing  
13 a laptop computer to a client site with a portable  
14 printer. And based on the profiles that are in the  
15 system, we've created, you know, months in advance of  
16 this service opportunity. We're printing the manifest  
17 in front of the client, having them sign it, putting  
18 the labels on the containers and moving it offsite  
19 with the waste.

20 Our typical service technician is  
21 highly technical. Can run a laptop computer and use  
22 automated software to generate manifest today. Our  
23 client base, in general, I would say over the years  
24 has migrated from being very hands-on and

1 knowledgeable with respect to a lot of the hazards  
2 waste regulations, to being more of a shared  
3 responsibility. In some facilities, it might be a  
4 procurement you're dealing with. It might be facility  
5 services, which don't have a lot of depth of knowledge  
6 in the hazardous waste regulation. We've seen more of  
7 a reliance upon the service companies to provide that  
8 expertise and that technology for them.

9 **MR. BARNES JOHNSON:** John, please.

10 **MR. JOHN RIDGWAY:** From our  
11 perspective, the clients, in the context of the  
12 generators, the scope of understanding technical or  
13 IT-based background is very broad. There will be  
14 small businesses, as we've heard, that may only  
15 generate a few shipments a year or one a month.  
16 Something like that. Small staff. And this is the  
17 processing of a manifest or annual reports or things  
18 of this nature is sometimes delegated down to the  
19 receptionist who will not understand waste codes,  
20 regulatory implications. And so that's part of the  
21 user base.

22 They need to be supported to  
23 understand, just like what we heard from Mr. Baker,  
24 they're counting on someone else providing the



1 service. And then it goes up from there. There are  
2 certainly businesses that are very familiar. They  
3 have an environmental specialist on site who  
4 understands this and they can whip out a good accurate  
5 manifest or other report very quickly without too much  
6 problem, but it's broad. You need to presume, there  
7 is a certain percentage that are going to feel -- that  
8 just got hired two weeks ago and they're assigned to  
9 deal with the transporter and the manifests and they  
10 are not going to have a clue.

11 **MR. BARNES JOHNSON:** Thanks. Raj,  
12 would you like to -- oh --

13 **MR. ROBERT KLOPP:** I just have a  
14 question.

15 **MR. BARNES JOHNSON:** Sure.

16 **MR. ROBERT KLOPP:** And maybe for the  
17 rest of the Board, and that is -- so when I look at  
18 this e-Manifest form, I assume that really what we're  
19 talking about isn't that much different than that same  
20 form through a series of web screens. I guess I'm a  
21 little bit -- so I guess I'm wondering from the  
22 subject matter experts on the Board or even from the  
23 EPA, I mean, what is it that you really think is going  
24 to be the issue when people do this in an electronic

1 form instead of a paper form?

2 I mean, I can imagine, since we haven't  
3 figured out how to build edits in the paper form yet  
4 that you just put in whatever you put in and that  
5 becomes the manifest. When I was sitting here trying  
6 to think about what is it that would cause me to need  
7 to call a help desk and ask a question if I'm just  
8 filling out an electronic form and there's no edits  
9 and I don't get errors. Just whatever I put in is  
10 what I put in, which is the way it is in the paper  
11 form today, then what is it that we think the errors  
12 are going to be?

13 I get the fact that there could be  
14 questions about logging in and passwords and things  
15 like that. I understand the CROMERR issues, although  
16 there's, I think, lots of sentiment on the Board if we  
17 could not use CROMERR and make it as simple as your  
18 end, a signature is a signature. That that makes that  
19 problem go away as well.

20 I guess I'm wondering, between the  
21 paper form and the electronic form, what is it that  
22 changes in the user experience that's going to cause  
23 all of these questions?

24 **MS. CINDY WALCZAK:** I'd like to address

1 that. I do think that most of your questions are  
2 going to be about access when you talk about the  
3 generator side because generators, they'll have to go  
4 in and pull off their TSDF received copy. And so I  
5 think on the generator side, most of your inquiries  
6 are going to be about access because frankly, most  
7 generators have handed off to their receiving facility  
8 the responsibility for preparing the manifest.

9 The receptionist, she's not doing the  
10 manifest, because frankly, determining the proper  
11 shipping name is much more complex than this system.  
12 You already have people who are using the system to  
13 enter real data, already have to have a certain level  
14 of confidence because they have to understand DOT regs  
15 and EPA regs. And the guy off the street doesn't  
16 really have that. I think you already have higher  
17 level competencies, in terms of entering data.  
18 Perhaps, you also have specially-trained. In the case  
19 of the TSDFs, they might not be PhD, but they know  
20 what they know and they know it very well. I think  
21 you've got those two.

22 I think, speaking only for the  
23 generator side, I think what you have is more  
24 sophisticated people working with it, except for

1 access issues when they have to go in and pull a copy  
2 for their records.

3 I'm sorry, I lost my train of thought.  
4 Oh, and in regards to that, too, I think that that's  
5 why from my perspective, I said earlier, I can wait 10  
6 minutes for a call back. I don't access this system  
7 while there's a truck at the gate. I have to do that  
8 before or after. But that's different than the TSDf.  
9 I understand where Tom's coming from. He has a  
10 different immediacy need than generators typically  
11 have.

12 **MR. TOM BAKER:** This is Tom. Just to  
13 add to that, you know, I think, Rob, you said the  
14 right things, you know, CROMERR user, access  
15 registration. You get that but those are critical  
16 issues and, you know, like I said on the receiving  
17 facility side, there's probably less -- there's more  
18 consistency on the folks that will be accessing the  
19 system. Registrations won't be changing frequently.  
20 Staffing is more consistent.

21 With the transporter community, the  
22 driver is the one that's got to access it to be  
23 CROMERR complaint and sign a manifest. He'll have to  
24 be registered and vetted somehow. So some company's

1 drivers come and go. I mean, turnover of 20 or 30  
2 percent is not unusual in the driver community.

3 Generators initiating shipments, you  
4 know, to John's point, it could be the receptionist  
5 today. Tomorrow it might be the janitor. The next  
6 day it might be the ESH manager. We have to react at  
7 the time of the shipment to know who's available to  
8 sign that manifest when we leave the site. So those  
9 are huge issues and I think that's what's going to be  
10 the critical issues, not so much just filling the form  
11 out, like you said, with the data that goes into the  
12 boxes on the form. It's going to be really user  
13 access and verification.

14 **MR. RAJ PAUL:** The other thing I'd like  
15 to add is, I mean, I'm also assuming the system is not  
16 going to take anything to be enterable. There's going  
17 to be some validation behind some of these fields, I  
18 would think. And if the validation rules kick in,  
19 people won't be able to enter what they thought they  
20 could enter on the paper. I'm spreading issues like  
21 that, right. But if the system is going to take  
22 anything in, then I think we're going to deal with a  
23 different problem because the data is going to be not  
24 valid.

1                   **MR. BARNES JOHNSON:** Okay. Justin is  
2 trying to get a word in here.

3                   **MR. JUSTIN WILSON:** Thank you. MiMi,  
4 this is back to your question about just kind of the  
5 level of technology and capability of, I think  
6 generators is kind of what you're asking about.

7                   I think those performing these  
8 functions to meet the RCRA regulations and DOT  
9 regulations are, and Cindy stated, educated in the  
10 matter or they're putting themselves at risk. So I  
11 feel that they're pretty technologically advanced.  
12 And what I mean by that is if you don't have the mean  
13 -- if you don't understand these regulations and meet  
14 the intent of them and fill them out A-Z, you hire  
15 someone who does.

16                   And so as Tom mentioned, yes, they have  
17 kind of the simpler process of a generator calls TSDF  
18 and says this is what I have to be picked up this  
19 month. They pre-print a manifest and bring it out.  
20 That's been going on for a long time. But he also  
21 mentioned bringing a laptop on site and selecting the  
22 correct profiles that are pre-set up with them for the  
23 different waste streams.

24                   I represent over 5,000 locations that

1 do not have experts on site. Okay. So that's the  
2 type of service that I've been utilizing for over six  
3 years is someone with all the technology, all the  
4 equipment. As he mentioned, printers on the truck,  
5 scanners on the truck, laptops, handheld type computer  
6 devices. Things that can take signatures in them.  
7 And so I feel that EPA may have a preconceived notion  
8 that -- and from everything I read here that maybe  
9 generators are not technologically advanced and need  
10 to stick with paper and things such as that, on this  
11 system.

12 I would recommend that you give  
13 generators the opportunity to perform this e-Manifest  
14 program, possibly fully electronically, from the  
15 beginning. Because if I have a service technician, a  
16 contractor has all this equipment on board and they  
17 show up to my site, being a store, for instance, where  
18 I'm not there, all right. They're performing on our  
19 behalf and if they have an electronic pad that can  
20 take a signature -- I don't know everything about  
21 CROMERR, but if they're signing on behalf of us,  
22 because -- let me back on why they'd sign on behalf.  
23 Per the manifest certification where you sign, you  
24 must be the person that is packaging and labeling and

1 preparing that shipment per DOT requirements.

2 If you're not doing that function, you  
3 have no business signing that line on the manifest.  
4 Therefore, you need to utilize -- and DOT see it that  
5 way. You need to utilize your service provider that  
6 transporter, for instance, that lab technician,  
7 whoever it is that's coming in, if they're packing and  
8 labeling and preparing that shipment, they sign that  
9 manifest on your site's behalf. And therefore, those  
10 type of service companies today have the ability to  
11 enter everything into a system, print a manifest on  
12 site, because that's what they do know.

13 They can scan -- most of them can scan  
14 those documents. They do that for their own record  
15 retention. And they may even have the ability to --  
16 and they're going to sign on your behalf, so they may  
17 even have the ability, their CROMERR certified. That  
18 technician has had all their validation done. They  
19 can sign electronically right then and there. So I  
20 think that we need a back-up to who's signing the  
21 manifest must be packing, labeling. Therefore,  
22 they're an expert. See what I'm saying. And if they  
23 are, they've got the technology to do that.

24 If they're not utilizing a service



1 company and they're packaging and labeling and all  
2 that, they're at a business with a computer. They now  
3 don't have anything they can sign electronically, but  
4 they do have a lot of technology available to them.  
5 And they may choose to get something they can sign  
6 electronically, to keep that function in-house.  
7 That's all I have.

8 **MR. BARNES JOHNSON:** Thanks, Justin.  
9 So I'm looking to see if we can wrap up Charge  
10 Question 3. Do you have a clarifying question, Rich?

11 **MR. RICHARD LASHIER:** Yes, I do.

12 **MR. BARNES JOHNSON:** Okay.

13 **MR. RICHARD LASHIER:** In following up  
14 with Justin and others, you talked about the user  
15 experience, the service companies being involved and  
16 having the expertise to do a lot of things on laptops  
17 now. How many of the shipments that you help prepare  
18 for your customers are recurring shipments? Because  
19 the concern about completing the form and making  
20 errors, filling out manifest elements, is that a  
21 significant issue or is it pretty much the same  
22 materials that are being shipped by the same customers  
23 over and over again? So if you get it right one time,  
24 you're okay from there on. Something like that.

1           **MR. TOM BAKER:** So there's a mix, Rich.  
2 I mean, obviously, bulk shipments tend to be more  
3 reoccurring and repetitive. You know, a cargo tank  
4 will roll off a rail car, tank car, where you can copy  
5 a manifest pretty well from one site to the next to  
6 make a shipment. But the reality are most of the jobs  
7 with drums and lab pack containers, there is a lot of  
8 variability. Every day is a new shipment.

9           They may generate, as a customer, you  
10 know, 15 waste streams. At any given time, we service  
11 that client they may have one or more of those 15, so  
12 you have to be prepared to manage any of those or more  
13 of those, you know, at one time.

14           **MR. RICHARD LASHIER:** So that you're  
15 picking off several of those wastes with each  
16 different shipment.

17           **MR. TOM BAKER:** Correct.

18           **MR. RICHARD LASHIER:** Because the  
19 profile that is in there, but it varies.

20           **MR. TOM BAKER:** And based on the  
21 quantity of the waste in the container, it could  
22 trigger something, for example, like a reportable  
23 quantity to be identified on a shipping name. So  
24 there's a lot of decision-making that goes into the

1 actual point of shipment to make sure that what you've  
2 prepared on a shipping paper is accurate.

3 **MS. CINDY WALCZAK:** I'd like to confirm  
4 what Tom said. So even if a company or entity has the  
5 same waste every week, they don't have the same waste  
6 every week. What they have is the same waste plus the  
7 isopropyl alcohol the nurse didn't need or the toilet  
8 bowl cleaner that as a pH of two that came about  
9 because they cleaned out the closet. So even your, I  
10 think you would agree, routine pick-ups, every once in  
11 a while, they're going to have something that's not  
12 routine. Would you agree?

13 **MR. JOHN RIDGWAY:** And from my  
14 response, in my world, no two shipments are the same.

15 **MR. MIKE HURLEY:** This is Mike. I  
16 would just add to that, the consistent part of those  
17 routine shipments is just the header information.  
18 It's who they are, where they are, their ID number and  
19 that kind of thing. The rest of it all vary.

20 **MR. BARNES JOHNSON:** Okay. So Raj,  
21 would you like to summarize -- do you have a point you  
22 wanted to make, Rob?

23 **MR. ROBERT KLOPP:** No.

24 **MR. BARNES JOHNSON:** Okay. Any more

1 clarifying questions from EPA?

2 **MR. RAJ PAUL:** There were a lot of  
3 diverse thoughts. I'll try my best to summarize this.  
4 One, I think there's consensus that it's got to be the  
5 touch and feel during launch so that people adopt the  
6 system a lot more, right from a level of automation  
7 vs. personal.

8 And I think there was a little bit of  
9 difference of opinion doing the automation part. I  
10 think Mr. Klopp saying about automation about having a  
11 context sensitive health screens and things like that,  
12 I think those go without asking, as part of building  
13 the system is what I would assume. But I think there  
14 was a little bit resistance around Chatbot, a little  
15 more advanced automation techniques, which I think  
16 could get planned as the system starts blazing and the  
17 user options starts increasing.

18 As far as, I think there was also a  
19 little bit of consensus around the technology or  
20 option on the generators is a lot of more than what  
21 EPA thinks at this time. The adoption of technology  
22 at the generator side is a lot mature compared to the  
23 transporter side, probably even the receiving side, I  
24 think.

1 Did I summarize everything?

2 **MR. BARNES JOHNSON:** Thank you.

3 Appreciate it. Let's pick up Charge Question 3C. I  
4 think what we're going to find is that we, perhaps,  
5 addressed this question in the course of our prior  
6 conversation, but let me have EPA present the question  
7 and Raj start the conversation.

8 **MS. MIMI GUERNICA:** Okay. This is MiMi

9 --

10 **MR. BARNES JOHNSON:** And my thought is  
11 we can get through this fairly quickly and then take  
12 our morning break.

13 **MS. MIMI GUERNICA:** Okay, 3C. "For  
14 states, programs with similar applications, what are  
15 best practices for standing up a help desk?"

16 **MR. RAJ PAUL:** Mr. Barnes, as you noted  
17 I think we talked, related to this question, the first  
18 two questions. Steve or Mr. Richard, do you have any  
19 more things to be clarified. I mean, we'll open it up  
20 for everybody, but I just want to understand if there  
21 is anything else you want to discuss?

22 One thing I think I can add is, and we  
23 were having offline conversations on this and I think  
24 Michael has said from a state standpoint, things could

1 be a little bit different. And I think I also heard  
2 in the first two questions, I think Mr. Klopp brought  
3 up a very interesting point about why not states play  
4 a very big role from a help desk standpoint.

5 It sounds like the capability which  
6 states have, the first -- I mean, pretty well between  
7 states. The thing I can add is from a system  
8 complexity standpoint, regardless of states or  
9 anything else, right, any time there is going to be a  
10 user or option resistance, that is when the need to  
11 focus on UI/UX comes in. I think we talked quite a  
12 bit about that as well in Question and 1A. So I don't  
13 think we need to add more about that. I think we'll  
14 open it up to the states to see if there is anything  
15 specific which states to -- which EPA can learn at  
16 this time.

17 **MR. BARNES JOHNSON:** So Michael,  
18 please, is our associate discussant.

19 **MR. MICHAEL HURLEY:** Sure. From the  
20 state perspective, I think you'd see that on the  
21 rollout, you're going to have a mix of questions that  
22 are either going to be technology issues, which is  
23 local to what you guys are doing, saying how do I get  
24 into the system? How do I get a password? How do I

1 this kind of thing. But you're also going to see just  
2 a wild variety of policy questions, you know, how is  
3 this handled in Delaware? How is this handled in  
4 Massachusetts? What should I be doing with this?

5 I think that'll be really difficult to  
6 manage because it goes beyond your charge. Your role  
7 is not to provide localized help for one county and  
8 one state that has a particular strange policy about  
9 waste oils or something like that. So you would  
10 actually probably need a really concise list of who do  
11 you send these questions to? And I think that would  
12 probably be best to be courted into the regions. Just  
13 because you're going to get those. And state-to-  
14 state, things are really different in how things are  
15 managed. I know we were talking before about states  
16 that don't use IDs for CDSQG vs. states that do use  
17 IDs.

18 If someone calls up and says I don't  
19 have an ID, is that all right? Well, what state are  
20 you from? What part of the state? Maybe you have a  
21 special ID you're supposed to use. Maybe you should  
22 get an EPA ID. I just think that's going to be really  
23 important. You will need a crosswalk to say here's  
24 your technical answer. And also for the policy issue,

1 please contact this person in this state. And then  
2 the states would then have to probably coordinate the  
3 regions to make sure they actually have staff to  
4 answer these calls. I have a staff of one, that's me.

5 You'll have 100 percent on Day 1, and  
6 I'll do my best, but it may not be enough. So I think  
7 that's going to be a real consideration. And then  
8 John, maybe you can offer more on that.

9 **MR. JOHN RIDGWAY:** I agree with what  
10 Michael just said. From the governmental relation  
11 side, it's not about the similar applications, but  
12 we're going to get calls. I'm sure. They might try  
13 the help desk for e-Manifest first and if for whatever  
14 reason they are left with more questions, they likely  
15 would be calling the state next for regulatory related  
16 questions. In this regard, I think it's good to  
17 continue to work with the states. And as Michael  
18 said, through the EPA regions, it makes sense to have  
19 a list. Maybe state-by-state, who would be, you know,  
20 the best contact and a backup contact for state-  
21 related questions. That makes good sense and it might  
22 make it a lot easier for your help desk at EPA.

23 **MR. BARNES JOHNSON:** Robert, you're one  
24 of our associate discussants, so please join if you'd



1 like.

2 **MR. ROBERT KLOPP:** I have nothing to  
3 add.

4 **MR. BARNES JOHNSON:** Thank you. Okay.  
5 Any more input from the Board on this?

6 **MR. JOHN RIDGWAY:** I have something.

7 **MR. BARNES JOHNSON:** Sure. Go ahead,  
8 John.

9 **MR. JOHN RIDGWAY:** Testing as well, you  
10 know, I hope the states have an opportunity where they  
11 do have the resources if they have a chance to get in  
12 and test and understand the system. That's just going  
13 to add support and resource to support the industry in  
14 this regard. So please do consider inviting the  
15 states into testing.

16 I would just like to point out that as  
17 we learn to work together as a Board that Barnes has  
18 caught on to the way to politely cut short  
19 conversations as to offer a break.

20 **MR. BARNES JOHNSON:** There we go.  
21 You're right. Clarifying questions from EPA on this  
22 last general point?

23 Raj, would you like to summarize for  
24 us?

1                   **MR. RAJ PAUL:** From a summary  
2                   standpoint, I think Mr. Michael noted that there could  
3                   be state-specific help, which people might call the  
4                   help desk for and it would be a good way to find the  
5                   right person to point the person to because EPA won't  
6                   be able to answer all the questions. Then I think  
7                   from a Washington standpoint, I think the states like  
8                   to participate in the testing part of it, which is  
9                   more from a planning standpoint, EPA can plan  
10                  accordingly.

11                  **MR. BARNES JOHNSON:** And just to add a  
12                  bit to that, Raj, I think another point that Mike was  
13                  making is that in addition to the technology question,  
14                  there is a lot of just basic policy questions that are  
15                  going to emerge. And many of these policy questions  
16                  might be related to states having decided to be  
17                  broader in scope or more stringent than the base  
18                  federal programs. So we're not in a position  
19                  necessarily to answer the question. And this will be  
20                  kind of a challenge for how we address. So I think  
21                  Mike was just sort of underscoring that point and  
22                  asking us to think that through.

23                  All right. With that, we're going to  
24                  be on a break. We're going to come back at -- let's

1 try to get back here at about 20 'til if we can.

2 Thank you.

3 (Brief recess.)

4 **MR. BARNES JOHNSON:** Okay. Let's see  
5 if we can get restarted here. We're going to be  
6 taking up Question 3D. And Raj Paul is going to be or  
7 discussant for this as well. I think I need an EPA  
8 person to come and read the question.

9 Rich is getting some water. We'll let  
10 him wet his whistle. Similar to Question 3C, some of  
11 this we've talked about already, but --

12 **MR. RICHARD LASHIER:** Sub question D,  
13 right?

14 **MR. BARNES JOHNSON:** Yes.

15 **MR. RICHARD LASHIER:** "A primary driver  
16 for this help desk is moving all of our users towards  
17 a fully electronic system. How best can the help desk  
18 assist in this effort?"

19 **MR. BARNES JOHNSON:** All right. Raj,  
20 as our lead discussant, would you like to start us  
21 off?

22 **MR. RAJ PAUL:** Sure. I'll go back to  
23 3A and 3B. I think we talked quite extensively about  
24 how can the help desk help for the user option. And

1 also I think the nuances between states should get  
2 addressed by the help desk so that the help desk knows  
3 at least who to direct some of those questions so that  
4 people calling in don't get discouraged using the  
5 system. Because one of the challenges rolling out of  
6 the system is that the paper system exists. So people  
7 don't get the answer they're looking for when they  
8 call in, they're going to resort to paper, which means  
9 the user option are not going to be good.

10 So from a help desk standpoint, I think  
11 we talked about -- I mean, when we talked about 3A and  
12 3B, we talked about the touch and feel that people  
13 know that they have somebody to talk to, to get help.  
14 And we start looking at other automated technologies  
15 as well.

16 More importantly, we also talked about  
17 relooking at the system for user option. So I think  
18 we talked most of it in 3A and 3B. I'm not sure what  
19 else to add to this question. I'll open it up to  
20 Michael and Mr. Klopp.

21 **MR. MICHAEL HURLEY:** I agree. We  
22 pretty much covered most of it. And I think one of  
23 the things that is really important, as Raj has  
24 brought up is you really don't want to have a lot of

1 help desk interaction. You really want to do this all  
2 in the prevention stage. So a lot of that, too. And  
3 I was just having an offline discussion about this  
4 with someone else, is the states will really need to  
5 make sure their generator's data is up-to-date as best  
6 possible. We got a year and-a-half.

7           Make sure that RCRA Info is containing  
8 the latest and best information because you don't want  
9 to have a customer basically hung up because their  
10 records are not up to date. That's a state issue.  
11 That's not their fault, most likely. We need to make  
12 sure that's all ready to go. And again, that's  
13 prevention. Again, the rest of it is engineering  
14 built into the forms themselves. Lots of user  
15 feedback on the look and feel of the screens. So that  
16 they don't really need a help desk and I think that's  
17 really the most important piece.

18           **MR. BARNES JOHNSON:** Rob. I know  
19 you've spoken about this issue, as we've been talking  
20 about a number of other -- of the three questions,  
21 particularly in 3A and 3B, so please.

22           **MR. ROBERT KLOPP:** Sure. I just have  
23 one thing I'd like to add and that is that how can the  
24 help desk assist?

1 I think that what would be interesting  
2 would be if you think about some of the collaborative  
3 kinds of capabilities that exist in advanced systems  
4 today. For example, in things like Google Docs, where  
5 multiple can actually edit the same document at the  
6 same time. I think the most help the help desk could  
7 provide is when somebody calls in that the help  
8 representative can actually pull the electronic form  
9 that that person is working on up and actually walk  
10 them through the edits. And maybe even just do it  
11 because the end result then is an electronic form that  
12 actually works as opposed to sort of an abstract,  
13 sometimes difficult conversation that tries to somehow  
14 explain to somebody how to do it themselves.

15 So if we could find a way for the help  
16 desk representative to be able to actually take  
17 control of the document and walk them through the  
18 edits, I think that that would be the most effective  
19 form of help.

20 **MR. BARNES JOHNSON:** Okay. Please,  
21 Cindy.

22 **MS. CINDY WALCZAK:** I don't think your  
23 help desk has much to do with moving people towards  
24 the system, frankly. I think you've got bigger

1 issues. And what I think is your biggest issue to  
2 going fully electronic is the fact that as I sit here  
3 for three days, I don't see any advantage to the  
4 generator today. And that is it sounds like we still  
5 need the six-part form. We still need to go and  
6 ensure that the TSDf has received it. We still have  
7 to keep our generator copy.

8 So your help desk, I think is not --  
9 cannot really impact moving generators to embrace the  
10 system. I think what's going to move generators to  
11 embrace the system is showing them how it makes their  
12 compliance easier, cheaper, better. And as we sit  
13 here today with the hybrid system, I'm not seeing  
14 those benefits to the generator. So again, I'll just  
15 reiterate, I don't think the help desk has any impact  
16 on whether or not the generator has embraced the  
17 system.

18 **MR. JUSTIN WILSON:** I concur with  
19 Cindy.

20 **MR. BARNES JOHNSON:** Okay. Thank you.  
21 John, please.

22 **MR. JOHN RIDGWAY:** I agree with  
23 everything we've just heard around the table. But I  
24 might circle back to nonetheless, if somebody does

1 call the help desk, Rob comment is, I think, the best  
2 selling point is if that help desk can access the  
3 record with the caller seen at the same time how easy  
4 this is -- now this is the commercial part where you  
5 just say look, this is all you got to do is put this  
6 information that you already understand what you need  
7 to put on the manifest, so that's not the issue. It's  
8 how to get it into the system and lickety split,  
9 here's how we do it and boom, boom, boom and they're  
10 off the line within five minutes. That is a selling  
11 point. this is what we experience in our help desk.

12 Often our staff end up working with the  
13 business that calls in and we frankly, walk them  
14 through field-by-field. And when they get out of  
15 that, if it's relatively painless, and as Cindy just  
16 said, it shows that they're in compliance. They've  
17 got all their records ready to go. They don't have to  
18 worry about putting them in a file, physically. That  
19 will help support the process. But I don't think the  
20 help desk should be the key goal to convincing a  
21 business to go electronic. It's going to be what you  
22 do before.

23 **MR. BARNES JOHNSON:** Any clarifying  
24 questions from EPA?



1 Any other input from the Board?

2 Any other input from the Board on this  
3 question?

4 **MR. RAJ PAUL:** I'd like to ask a  
5 clarifying question to EPA. What are you expecting  
6 out of this question? Because one, 3A and 3B are more  
7 in line with 3D as well. I mean, if you're expecting  
8 something else, then we will focus on that as well.

9 **MR. STEPHEN DONNELLY:** No. I feel that  
10 -- I just wanted to, when we drafted this charge, we  
11 were looking to engage the diversity of the panel's  
12 expertise and different aspects of information  
13 technology and hazardous waste manifest shipment. So  
14 it was sort of this four-part question, which moving  
15 forward, I don't think was very fair to you.  
16 Apologies.

17 We were just looking for anything and  
18 everything to go along with the help desk and I feel  
19 like you've answered well beyond what I thought was  
20 going to be a useful answer. So thank you very much.

21 **MS. MIMI GUERNICA:** I have a clarifying  
22 question.

23 **MR. BARNES JOHNSON:** Yes. MiMi  
24 Guernica has a clarifying question.

1                   **MS. MIMI GUERNICA:** Thank you, Barnes.  
2                   This is actually for Justin and for Cindy. So you  
3                   both agree with the statement that we need to show the  
4                   generators how the system makes their compliance  
5                   easier. Based on your understanding of the hybrid,  
6                   how does that jive or not with the need to demonstrate  
7                   to the generators how to make their compliance easier?

8                   I guess my question is do you think  
9                   that based on our proposal of the hybrid we can  
10                  achieve that goal or do we have to fundamentally  
11                  rethink our approach in order to show the generators  
12                  how to make the compliance easier?

13                  **MR. JUSTIN WILSON:** Thanks for that  
14                  question. It give me an opportunity to express a  
15                  great concern that I have with 5,000 locations and  
16                  generating over 80,000 manifest per year. This  
17                  hybrid, I don't know how to achieve compliance with  
18                  the hybrid approach, where I am achieving compliance  
19                  today with full paper.

20                  And the reason -- and my explanation to  
21                  that is currently, I get a paper copy of the manifest  
22                  and once it hits TSDf I get the final copy in paper.  
23                  I attach those; put them in a file. My record  
24                  retention is complete, as long as I've achieved that.

1 With the hybrid approach, I get a generator copy of  
2 paper so that there is a signature as a generator,  
3 which in our case is actually the transporter, a lab  
4 pack chemist signing on our behalf. But regardless,  
5 I'm the generator, I have to have that paper copy.

6 In the hybrid approach, I won't receive  
7 a paper copy, a final copy in the mail, which means  
8 that I now have 5,000 locations plus -- let's multiply  
9 that by three associates who would have the ability to  
10 -- yeah, three associates who would have the ability  
11 to do the record retention for this program. That's  
12 up to 1,500 people that have to keep passwords. And  
13 we have a lot of turnover, by the way, and head count.  
14 But I have to keep passwords to access the online  
15 system to see that the waste that was shipped out  
16 actually went to its intended destination.

17 So if any inspector walks into any  
18 single store or Sam's Club, they want to see  
19 manifests. That's the first thing they come to see.  
20 My assumption is that they're going to want each  
21 location to have validated that that waste went where  
22 it was intended to go, which means for us to meet and  
23 satisfy -- I think for us to satisfy that inspector, I  
24 think each location is going to have to log on to the

1 EPA e-Manifest system and either demonstrate to that  
2 inspector there at that time, look, here they are. Or  
3 have printed something to stick in a filing cabinet,  
4 which is what I really need them to do because the  
5 person who knows how to do this may not be on site  
6 when that inspector comes in.

7 So right now, I get it in the mail. I  
8 put them together. I put them in a filing cabinet.  
9 I'd like the whole thing to go away where I don't have  
10 to keep paper, but with this hybrid approach, it adds  
11 burden is that I've got all these people that have to  
12 log into a system and they can't even receive -- those  
13 people cannot receive attachments and email.

14 So if Tom's company, as a service to  
15 us, said we'll just mail you that data. Each time we  
16 receive your waste, we'll email you that so that you  
17 can print it. I can't even get that. The store  
18 manager is the only people who get attachments.  
19 That's for security reasons. And store managers are  
20 the most overwhelmed people out there.

21 So this hybrid approach, to me, I am  
22 struggling with how to even be compliant, from a  
23 record retention standpoint. That's why a moment ago  
24 I asked if the generator has the technology to go

1 fully electronic? Can the system be set up to allow  
2 them, from the beginning, this hybrid approach will  
3 not work. At least I hadn't figured out how to make  
4 it functional in our current environment.

5 **MR. ROBERT KLOPP:** Can I make a couple  
6 of comments?

7 **MR. BARNES JOHNSON:** Yeah. Let me just  
8 remind the committee, we're going to spend the whole  
9 afternoon talking about the hybrid approach. We have  
10 our final question is on this. So please, Robert,  
11 engage. But I just want to let folks know that we are  
12 planning to spend quite a bit of time on this.

13 **MR. ROBERT KLOPP:** Okay. I was going  
14 to say three things, and one was to be about hybrid,  
15 so I'll save that one. But the two things I'd like to  
16 point out is if this thing changes to a world where  
17 the users like you, are driving the requirements of  
18 the application, then I think you just described a  
19 user story that says I need to have an option in a  
20 system that sends U.S. Postal Service mail so that I  
21 have a paper record for my files.

22 And there's no reason why you can't  
23 build that in. I mean, that's actually not hard. So  
24 the electronic thing doesn't say that we never

1 generate paper. It says that there's an electronic  
2 record and a database and stuff like that. The second  
3 thing that I think also you need to see as an  
4 opportunity is if the fundamental user story that you  
5 just described which is that there is an issue that we  
6 need to be able to report on around a potential  
7 discrepancy.

8 We have to prove that when we ship  
9 something that it ended up where we said we were  
10 shipping it to. Well, the electronic record has both  
11 where you think you're shipping it to and the  
12 receiver. All of those are electronic. And so you  
13 would hope that the inspector already has the records  
14 that prove that this thing went, and is only coming  
15 and talking to you when there is, electronically, a  
16 discrepancy that says gosh, you know, that's the way  
17 it should be. Why?

18 **MS. CINDY WALCZAK:** Because the  
19 inspectors are ensuring that you're fulfilling your  
20 obligations. Not that the waste --

21 **MR. ROBERT KLOPP:** No, I understand.  
22 I'm just talking about the one case that Justin  
23 brought up which was the inspectors come in and want  
24 us to assure them that it went where we said it went

1 to. And I'm saying that we now have an electronic  
2 record of that.

3 **MS. CINDY WALCZAK:** Well, maybe we  
4 could ask EPA to address that because I believe that  
5 inspectors come in to ensure you fulfill your  
6 obligations, not to make sure that the waste went  
7 where you thought it went. And one of the generator's  
8 obligations is to ensure. So how do you demonstrate  
9 that you checked on it. That's what they're looking  
10 for, I believe.

11 **MR. ROBERT KLOPP:** But these kind of  
12 audit things are automatic in an electronic system  
13 like this. That's what I'm trying to say. The reason  
14 the inspector asks that is because they want to ensure  
15 that you've connected the dots in paper. But the  
16 electronic system will connect those dots. But I  
17 guess what I would say is, not understanding all of  
18 the things that an inspector might do, my question  
19 would be how can we make the automated system be  
20 comprehensive enough to automate a bunch of these  
21 inspections?

22 Again, because these are the kinds of  
23 things that are going to cause you to want to -- going  
24 to make you want to go to the electronic system

1 because now inspectors aren't even going to come in  
2 because they don't have to come and ask you have you  
3 looked at the paper trail to make sure everything  
4 worked out right because the paper trail is electronic  
5 now. The inspector knows that 10 of the 15 questions  
6 asked, he knows the answers to those because the  
7 electronic system has tracked all that stuff.

8 So think about all of these kinds of  
9 things like what happens when you get an inspection.  
10 And ask yourself could I take the questions the  
11 inspector asks and have the answers already known  
12 because the electronic system keeps track of that.  
13 and those are the kind of things that we need to build  
14 into the system that makes this so compelling that you  
15 want to go to it because all of a sudden audit becomes  
16 an electronic function instead of a paper function,  
17 right. Those of the kinds of things that will make  
18 this thing remarkably attractive and reduce workload.  
19 We have to build them in. You guys have got to  
20 identify them and deliver the user stories to these  
21 guys. And by the way, I go back to the first point,  
22 if in the end you believe that for lots of reasons, at  
23 least in the beginning, the right thing is for the  
24 system to automatically send you a paper copy so you



1 can put it in the same file you put it in now, then  
2 the system ought to do that for you.

3 **MS. CINDY WALCZAK:** Yeah, but then we  
4 are at the place where we're at now. We didn't  
5 benefit. So nothing changes, except we're getting  
6 charged \$10 to \$40 a manifest by the --

7 **MR. ROBERT KLOPP:** If you choose to not  
8 change because you decided to keep a paper-based copy,  
9 which is not mandatory, but that's what you decided to  
10 do. That's what you decided.

11 **MR. JUSTIN WILSON:** Not under the  
12 hybrid approach we're forced.

13 **MR. ROBERT KLOPP:** I understand.

14 **MR. JUSTIN WILSON:** I agree with you  
15 once it's fully electronic that then we've got  
16 decisions to make to either invest in a service  
17 company who invests in the technology or we invest in  
18 the technology to participate in a fully electronic  
19 system or we decide to stay on paper, depending on the  
20 ROI. I agree with that statement.

21 **MR. ROBERT KLOPP:** I understand. Let's  
22 save it for later. I think we should have a  
23 discussion about whether there's a better approach  
24 than the hybrid approach.

1                   **MR. JUSTIN WILSON:** Agreed.

2                   **MR. BARNES JOHNSON:** Okay. Any further  
3 clarifying questions from EPA? Okay. Raj, would you  
4 like to --

5                   **MS. CINDY WALCZAK:** I'd like to point  
6 out that, MiMi, what I meant to say if I didn't was  
7 that the generator, in order to fully embrace this  
8 system, would find it cheaper or easier, not  
9 necessarily easier. So if there's a cost save or if  
10 it makes compliance better or easier, those would be  
11 the things.

12                   **MS. MIMI GUERNICA:** Thank you.

13                   **MR. BARNES JOHNSON:** Okay. Raj, would  
14 you like to summarize?

15                   **MR. RAJ PAUL:** Yeah. I think there was  
16 quite a bit of discussions on hybrid. I'm not going  
17 to summarize on that because we're going to talk about  
18 that this afternoon.

19                                 Pertaining to this question, I think  
20 there was consensus that 3A and 3B answered most of  
21 the parts for this question. The other thing which I  
22 think the Board had consensus is to look at  
23 technologies that Mr. Klopp brought in where the help  
24 desk has access to the form which in progress by

1 somebody who was filling in and tried to help them  
2 with the form. Real time, I think that will help  
3 immensely. And I think there was concerns about if  
4 the generators get to benefit at all, the whole  
5 system, which I think we'll probably discuss part of  
6 the hybrid discussion there.

7 **MR. BARNES JOHNSON:** Okay. Very good.  
8 So now we're going to move on to Charge Question 4.  
9 Thanks, Raj.

10 And I'm going to ask EPA to present  
11 Charge Question 4A to the Board.

12 **MS. MIMI GUERNICA:** Okay. This is MiMi  
13 Guernica. 4A reads, "What features or incentives  
14 could be included in the advanced fixed payment  
15 approach to make it more appealing to receiving  
16 facilities and reduce the risk from variability and  
17 use of manifests?"

18 **MR. BARNES JOHNSON:** Thank you. Tom  
19 Baker is our lead discussant. So Tom, please take it  
20 away.

21 **MR. TOM BAKER:** Sure. And maybe it  
22 would be helpful to have just a one-minute explanation  
23 of what is the advanced fixed prepayment approach.  
24 Rich, if you can do that, just very basically state

1 that.

2 **MR. BARNES JOHNSON:** Thanks, Rich.

3 **MR. RICHARD LASHIER:** As we discussed  
4 the other day in the summary of the proposed rule on  
5 payment methods, there was the one option where people  
6 use the system for a month and they're invoiced for  
7 that month of services and they they're asked to go  
8 online and make the electronic payment to pay.gov.

9 And the alternative option was the  
10 advanced fixed payment approach where we say you go in  
11 using the last estimate of manifest usage last year.  
12 You would calculate your manifest exposure and then  
13 come up with an estimate using the fee schedule of  
14 your monthly manifest fee and agree to make an  
15 electronic Clearinghouse debit from the commercial  
16 account on the first of each month to pay.gov because  
17 that's consistent with their idea of a fixed recurring  
18 payment.

19 So it has to be the same amount each  
20 month, based upon your estimates of exposure. And  
21 then at the end of the year, there would be a  
22 reconciliation. So that was the two that we proposed  
23 and received comment on.

24 **MR. TOM BAKER:** Okay. Great. Thank

1 you, Rich. So I think as we look at trying to  
2 identify value features or incentives, it's important  
3 to understand the comments that were received by  
4 industry, which I think I can in reviewing them,  
5 generally, that they were not in favor of this  
6 approach of a prepayment approach, specifically the  
7 TSDFs again. The receiving facilities are tasked with  
8 paying the manifest fees and then presumably passing  
9 those costs on back to their customer base.

10 So the main issue is really, I think  
11 that we're looking at here with this approach is that  
12 there's a reconciliation process that has to be  
13 undertaken by the initial paying of the bill. So if  
14 you're paying in advance on a fixed number of  
15 manifests for a month, you'd have to go back and  
16 determine how many you actually did process, with  
17 EPA's assistance and then plus or minus that based on  
18 the true activity.

19 So that reconciliation process is  
20 viewed as a burdensome process that's going to take  
21 some time to work through on a monthly basis. And the  
22 second issue that I think we'd have to be able to  
23 address with incentives or features is it's really the  
24 cash issue, having to outweigh money in advance of

1 receiving services is something that most folks don't  
2 want to do at any business, much less the hazardous  
3 waste industry.

4           So if you look at the financial impact  
5 to -- and I'll speak on behalf of the larger  
6 facilities, larger companies that have multiple TSDFs,  
7 multiple receiving facilities, 100,000 manifests a  
8 year, 150,000 a year, it's going to be, assuming, \$20  
9 to \$30 a manifest. The fees are going to be  
10 substantial and the monthly fees could easily be over  
11 \$100,000 a month.

12           So in trying to address those two  
13 issues, you know, I think -- I don't see how we can  
14 avoid the reconciliation process because that's core  
15 to this approach, is having to reconcile the  
16 differences, month-to-month. So I don't think that's  
17 really avoidable. The other option or the other  
18 incentive I think would have to be purely financial to  
19 provide a lower manifest per manifest fee to make it  
20 more attractive to an industry group to prepay for a  
21 service. You know, again, holding onto cash longer is  
22 beneficial for these industry groups. And without a  
23 financial incentive, I don't see it viewed as being an  
24 attractive solution.

1                   **MR. BARNES JOHNSON:** Okay. Thanks,  
2 Tom. John, please.

3                   **MR. JOHN RIDGWAY:** I agree with what  
4 I've heard. I think you'd have to offer a pretty good  
5 financial discount if you want people to pay in  
6 advance and maybe again, per what we heard from Josh,  
7 for the larger, you know, operations, there could be a  
8 significant savings, perhaps, if they make a down  
9 payment. And how much to hook them, I don't know what  
10 percentage that would be. I mean, if it was a 50  
11 percent discount if they pay in advance, maybe they'd  
12 think about. And you might have to ask and see where  
13 do you get the switchover threshold, at least  
14 conceptually.

15                   My only other point is the notion of  
16 reconciliation at the end of the year with the U.S.  
17 Government provokes a lot of thoughts of  
18 complications, delays, confusion. And it's not really  
19 helping what EPA needs to do. That's just a lot of  
20 bureaucracy and administration, you know, trying to  
21 catch up and get it right. And oh, my gosh, it could  
22 get pretty ugly pretty fast.

23                   Thanks.

24                   **MR. BARNES JOHNSON:** Thanks, John.

1 Cindy.

2 **MS. CINDY WALCZAK:** I have no comment  
3 on those subject.

4 **MR. BARNES JOHNSON:** Okay. All right.  
5 Justin, as our third associate discussant.

6 **MR. JUSTIN WILSON:** I concur with the  
7 fact that there would have to be a discount for  
8 prepayment. I'm totally struggling with how the TSDF  
9 could pay that upfront. They're not in the same  
10 position as EPA. And EPA is basically saying we don't  
11 have any money to start out with, so we need this  
12 prepayment to fund this program successfully. And you  
13 know, I think I understand that.

14 The TSDF's situation I think is that, I  
15 know just for us it's 1.5 million a year just on our  
16 number of manifests that we've got to pay. So they  
17 pay, TSDFs, for example, pay upfront and then they're  
18 going to charge their generators. And I know with  
19 companies like mine, you're going to get paid -- after  
20 you invoice me, you're going to get paid 45 to 60 days  
21 after I get your invoice.

22 So just based on our expense alone, as  
23 a company, I would think some of the TSDFs would be  
24 putting up millions of dollars. I don't know. Is it



1 just funding -- is prepayment -- how long does it  
2 fund? It is prepayment monthly?

3 **MR. RICHARD LASHIER:** Yes.

4 **MR. JUSTIN WILSON:** Okay. So they'd  
5 put up a 12th of whatever their annual spend would be  
6 of that. But I guess my point is based on payment  
7 terms from many of their customers, it's liable to be  
8 two months plus, if they invoice at the end of the  
9 month, that they get compensated for that.

10 If they also bill upfront to their  
11 generators, I'm just a little concerned how that would  
12 be received from the generator community. You know,  
13 now I've got an invoice I pay upfront to a TSDf  
14 strictly for the e-Manifest system. I'm going to  
15 essentially be getting two invoices a month, I think.  
16 Because then following the month of services, I'm  
17 going to pay an invoice for a month of services.

18 **MS. CINDY WALCZAK:** And you're paying  
19 for something you haven't received yet, too.

20 **MR. JUSTIN WILSON:** Yeah.

21 **MS. CINDY WALCZAK:** Which is  
22 problematic.

23 **MR. JUSTIN WILSON:** It's estimated and  
24 then they reconcile with us at the end of the year

1 based on the --

2 **MR. BARNES JOHNSON:** Can I get you to  
3 put down the mic, Cindy.

4 **MS. CINDY WALCZAK:** Oh, I apologize. I  
5 just commented that it's difficult for businesses to  
6 pay for services they've not received. So for the  
7 TSDf to send me a bill for \$400 for something they  
8 haven't given me yet, I don't know how to get that  
9 through our system. There's probably a way, but it  
10 certainly is complex. It's not what we typically do.

11 **MR. BARNES JOHNSON:** Okay.

12 **MR. JUSTIN WILSON:** I'm not an  
13 accountant for our company. I wish I was so I could  
14 speak with more education in this regard, but I think  
15 I've stated all my thoughts.

16 **MR. BARNES JOHNSON:** Okay. Others on  
17 the Board. John, please.

18 **MR. JOHN RIDGWAY:** Another scenario I  
19 think that's problematic here is let's imagine where a  
20 business ends up generating way more manifests than  
21 they expected. So the reconciliation at the end is  
22 going to, if I understand, would be heck of big bill,  
23 which, you know, and the numbers we've heard around  
24 here could be significantly impacting the finances of

1 a business. And also, I think it's noteworthy that  
2 the government is not allowed to pay in advance for a  
3 service. We can't do that. And so I think to ask  
4 businesses to do that is somewhat of a double  
5 standard.

6 **MR. BARNES JOHNSON:** Does EPA -- oh,  
7 Rob, please.

8 **MR. ROBERT KLOPP:** So I wanted to spin  
9 this one on its head a little bit, I think. And let  
10 me start it off by sort of going back and imagining  
11 that really, EPA is a software vendor that is building  
12 a software product that they would like a variety of  
13 you all to buy as customers.

14 If you're selling software, there's a  
15 variety of ways that you can price and sell it. You  
16 can sell it per seat. You know, every user of this  
17 thing pays \$1,000 a month for a seat or something like  
18 that. You can software and say there's going to be an  
19 upfront cost to buy the software and then ongoing  
20 license and support payments. That would be a really  
21 normal business model. And then you get all the money  
22 upfront. But the latest thing in software is to use a  
23 subscription model. And the idea of a subscription  
24 model is you subscribe to this thing, you pay every

1 month for the use of this software. And by the way,  
2 there is also another model, which is really kind of a  
3 -- some places do have fine-grained, you know, pay per  
4 unit of work model.

5           So for example, where there's some  
6 commercial software we you use at SSA, where the  
7 vendor charges us for the number of cases that we run  
8 through their process. But it turns out that the more  
9 fine-grained you get, the more expensive it is to  
10 account for all of these things. A line item, instead  
11 of being one monthly subscription fee becomes every  
12 manifest. And every discrepancy report is another  
13 fee. And everything else is another fee and you end  
14 up with zillions and zillions -- I mean, really  
15 millions of line items that somehow have to be  
16 accounted for, and building the accounting system cost  
17 a ton of money.

18           And so what I would argue is, first  
19 off, you know, I would probably have argued from the  
20 beginning that the idea of charging per manifest was  
21 just not the right way to think about the problem in  
22 the first place, where you're just trying to recoup  
23 your cost just to charge some people some kind of a  
24 fee that is small, you know, people. Small transports

1 pay different than medium transports than large  
2 transports, and you create a T-shirt sizing thing.  
3 And the same thing for generators and the same thing  
4 for receivers, and just charge them all. But it  
5 becomes really easy; it's an annual fee or a monthly  
6 fee or however you want to do it, but it's really  
7 easy. There's no accounting system. I don't have to  
8 hire 1,000 people to go keep track of all this stuff.  
9 It just becomes a dead, easy thing.

10 And I can now lower the cost to  
11 everybody because I'm not spending a zillion dollars  
12 to build a giant clerical function to keep track of  
13 all of these low-level line items. So what I would  
14 say is, now to kind of tie this altogether is, the way  
15 to create this fixed payment approach with the proper  
16 financial incentive is to recognize that there's a  
17 financial incentive to the EPA to not have these  
18 people be billed per manifest. The financial  
19 incentive to the EPA is if I don't have to build the  
20 accounting function for all of these things if I just  
21 charge you a subscription.

22 If the total cost of the program is  
23 reduced by 15 percent because I don't have to have all  
24 this overhead of an accounting function, I can now go

1 to all of you and offer you a 15 percent discount over  
2 the \$100,000 a month or \$1.5 million you think you're  
3 going to pay now. And it's a real-life savings to the  
4 EPA because you're not paying for all of these people  
5 to do the accounting.

6 So I think that there's something in  
7 this idea of thinking about how much do we need to  
8 recoup in order to pay for this thing. How could I  
9 sort of build a model that allocated those costs in a  
10 bigger chunk to all of the people that are going to be  
11 the consumers of this product and make it so that it's  
12 a monthly subscription fee and get rid of all of this  
13 -- I mean, think about -- I mean, think that the cost  
14 of building the system to account for every manifest  
15 is going to be as big as the cost of building the  
16 system in the first place, right.

17 So that's how I would sort of spin this  
18 on its head and say think about one line item that you  
19 get billed a year or one line item that you get billed  
20 a month that makes the whole problem of accounting for  
21 this thing so much simpler that it actually reduces  
22 the cost of the program.

23 **MR. BARNES JOHNSON:** Thanks, Rob.

24 Okay. Any clarifying questions from EPA?

1                   **MR. RICHARD LASHIER:** Clarifying. Tom  
2 raised the issue of suggesting that maybe the  
3 incentive might be, you know, the cost of money and  
4 having to advance. It's sounds like an interest sort  
5 of savings. Rob mentioned the idea of the savings  
6 without having to do all the administrative work of  
7 time usage to bills and collection.

8                   And one of the ways I guess to look at  
9 the advance payment approach is that it does avoid the  
10 cost of monthly invoicing for 400+ facilities for each  
11 month's manifest usage. They do a worksheet at the  
12 beginning of the year; estimate their fee exposure and  
13 then there's that 1/12 payment, with perhaps, that one  
14 reconciliation payment. So maybe there actually would  
15 be an incentive, economically, to reduce cost of  
16 setting up a process that bills monthly and accounts  
17 for monthly billing with the one reconciliation at the  
18 end of the year where the user is going to doing that  
19 worksheet at the front of the year to initiate the  
20 payment, the cost of their monthly payments.

21                   So there probably is some savings to  
22 the user community from the advanced payment approach,  
23 just from the reduced administrative cost of not being  
24 slightly involved in monthly invoicing.

1                   **MR. ROBERT KLOPP:** Yeah, but I would  
2 suggest don't do the reconciliation and have all those  
3 detailed line items things that you still have to have  
4 a giant staff to reconcile.

5                   **MR. RICHARD LASHIER:** So your  
6 suggestion is that perhaps the advance payment  
7 approach might be a useful way to approximate a  
8 subscription --

9                   **MR. ROBERT KLOPP:** Yes.

10                  **MR. RICHARD LASHIER:** -- without having  
11 to do the additional chore of the reconciliation.

12                  **MR. ROBERT KLOPP:** That's exactly what  
13 I'm suggesting.

14                  **MR. RICHARD LASHIER:** Okay.

15                  **MR. ROBERT KLOPP:** You can't change the  
16 regulation, so just create a subscription as an  
17 advance payment model and that way you haven't -- let  
18 them voluntarily go away from low-level line item  
19 things as opposed to unregulating it.

20                  **MR. BARNES JOHNSON:** Cindy.

21                  **MS. CINDY WALCZAK:** I'd like to hear  
22 Tom's thoughts on that idea, on the face of it. It  
23 makes sense to me, but it affects Tom's industry.

24                  **MR. TOM BAKER:** Yes.



1                   **MR. BARNES JOHNSON:** So Tom, why don't  
2 you give us your thoughts on that idea. And then  
3 after that, sort of summarize the view of the panel on  
4 4A.

5                   **MR. TOM BAKER:** So again, Tom Baker. I  
6 have a lot of different thoughts going through my head  
7 right now about that suggestion, Rich. I mean, almost  
8 like a subscription fee, registration fee. If you  
9 take that approach, then I would suggest that you  
10 would link it to maybe something like the Bonnie  
11 Report and do it in a per tonnage of waste generation  
12 for a generator, then you can bring the transporters  
13 into the user community too, but then could move away  
14 from having the TSDFs, the generators, the receiving  
15 facilities be the main conduit for paying of the fees.

16                   So that might be an incentive,  
17 certainly for the receiving facilities, but I'm sure  
18 you got a lot of opposition to that from the other  
19 regulated parties being generators and transporters.  
20 So it's an interesting concept, but I think it has its  
21 own complexities to work through.

22                   I can think of, you know, look at DOT,  
23 it has a program for registration for hazmat shippers  
24 and it's basically collecting money to fund a program.

1 And that's based on your size as a business. And  
2 there's a small business discount versus a larger  
3 business. So some interesting thoughts. Rich, I  
4 don't have any definitive opinions on whether it would  
5 work or not, but it would have to be vetted fully.

6 So to summarize the comments specific  
7 to this charge, I think there was going to be a  
8 unanimous comment that a prepayment approach seems to  
9 be not a desired option for industry. And to tackle  
10 that and provide incentives would have to be financial  
11 in nature, primarily, or finding new ways to reduce  
12 that administrative burden of having to do  
13 reconciliation at the end of year. And Rob had some  
14 suggestions about making it not be a per manifest fee  
15 but maybe more of a subscription or a service fee.

16 **MR. BARNES JOHNSON:** And then I think  
17 we just also hear the idea of potentially a financial  
18 -- some sort of financial discount.

19 **MR. TOM BAKER:** Correct. Right.  
20 That's like the primary discussion was regarding what  
21 would be a suitable financial incentive that would  
22 have the receiving facilities wanting to pay in an  
23 advanced fashion.

24 **MR. BARNES JOHNSON:** Okay. So can we

1 present Question 4B to the committee?

2 **MS. MIMI GUERNICA:** 4B.

3 **MR. BARNES JOHNSON:** It's a long one.

4 **MS. MIMI GUERNICA:** Yeah, it is. I see  
5 that. "If the initial year's appropriations are not  
6 adequate to seed several months of system operating  
7 costs, does the Board consider it reasonable for EPA  
8 to require the advanced fixed payment approach during  
9 the initial year of operations, and then allow  
10 facilities to opt out if they so choose?

11 What other means are available within  
12 the proposed rule options to mitigate EPA's revenue  
13 stability risk during the initial period of system  
14 operations?"

15 **MR. TOM BAKER:** I think we discussed  
16 the approach in general and some of the shortcoming of  
17 that approach to industry's perspective. You know, I  
18 think the question is pretty straightforward. Is it  
19 reasonable? In my opinion, it's no, it's not  
20 reasonable. Is it possible? Anything's possible, I  
21 guess, but I don't think it's reasonable, for the  
22 reasons stated in the first charge question, 4A.

23 And as far as the second part of the  
24 question that gets to other means available to

1 mitigate EPA's revenue stability, I mean, it all goes  
2 back to the funding for the program. The perspective  
3 that I would bring is that industry, it's an issue  
4 that EPA has to address and deal with, with Congress,  
5 but you know, it shouldn't have a detrimental impact  
6 on industry directly. It's something that has to be  
7 taken care by EPA with them working with Congress and  
8 not rely upon industry to, in a sense, bail out the  
9 program, initially, to get it going.

10 **MR. BARNES JOHNSON:** Okay. So John is  
11 our first associate discussant.

12 **MR. JOHN RIDGWAY:** Thank you. We have  
13 a variety of fees in our program in the state for  
14 hazardous waste in Washington. And a couple of  
15 thoughts. One is a fixed fee, whatever that is, is so  
16 much easier to administer than having to calculating  
17 the fee per business that's going to get billed. And  
18 the simple reason is you don't get the questions back,  
19 "Well, how did you come up with this number?" That is  
20 a complicated question. People want to see records.  
21 They want to know how did you come up with this  
22 number? So if you can keep it fixed, if that's the  
23 way it's going to work, that's going to be to the  
24 advantage of everybody.

1           Second, I agree with the other comments  
2 that we've heard here, with some added thoughts that  
3 one is, a discount to smaller businesses is going to  
4 go a long way. We do have that in one of our fees,  
5 and it's appropriate, and it's based on revenue.

6           So that means we have to work with our  
7 State Department of Revenue to filter out the  
8 businesses that don't hit the minimum threshold.  
9 They're not even going to get the bill. And the  
10 argument, obviously, that the smaller businesses are  
11 the least able to afford these expenses, particularly  
12 if they're advanced payments.

13           Third, I think -- I'm empathetic with  
14 the pickle that EPA is in here. Not knowing what your  
15 expenses are going to be and not having as much as has  
16 been requested from Congress, and I certainly do not  
17 understand all the details around that and the history  
18 around that. But there's a pragmatic implication that  
19 if the initial years cost more than what has been  
20 allocated, I think EPA needs to be prepared to tap  
21 into some other resource that you have within the  
22 entire organization to help make sure that you don't  
23 just have to, you know, turn off the lights and lay  
24 people off because you don't have enough money. And I

1 think that's extreme. I wouldn't think that's  
2 realistic, but you get my point. But it's going to  
3 take probably a few years to figure out what the  
4 expenses are going to be. And I understand every two  
5 years you would come back and try to balance that with  
6 how you structure the fees.

7 I'll leave it at that.

8 **MR. BARNES JOHNSON:** Okay. Cindy.

9 **MS. CINDY WALCZAK:** I have no opinion  
10 on the question itself, but I would like EPA to  
11 confirm or clarify a statement that was made. And it  
12 goes to the scope of this question and the scope of  
13 our replies.

14 You had indicated a couple of times, I  
15 think, collecting from 400 TSDFs, but when you pull in  
16 state-regulated waste or anything that goes on a  
17 manifest, I think you're vastly underestimating the  
18 number of entities from which you propose to collect  
19 fees. Am I mistaken?

20 **MR. RICHARD LASHIER:** You're not  
21 mistaken. There's a number unknown to us of the  
22 state-regulated waste facilities that would add to the  
23 400 known TSDFs.

24 **MS. CINDY WALCZAK:** Would you estimate

1 that would, at a minimum, double or triple the  
2 universe of entities from which you have to collect  
3 fees?

4 **MR. RICHARD LASHIER:** I couldn't hazard  
5 a guess at this time.

6 **MS. CINDY WALCZAK:** Could I ask the  
7 Board members that are from state agencies, do you  
8 have waste that you're required to be put on a  
9 manifest that are not RCRA waste, federal RCRA waste,  
10 and those go to receivers that are not RCRA licensed  
11 TSDFs. DO you have a sense as to the scope of that  
12 program as compared to the RCRA?

13 **MR. MICHAEL HURLEY:** In Massachusetts,  
14 most of them, they would RCRA-permitted.

15 **MR. BARNES JOHNSON:** This is Mike  
16 Hurley.

17 **MR. MICHAEL HURLEY:** Mike Hurley.  
18 Sorry.

19 **MS. CINDY WALCZAK:** I mean, are they  
20 part of the 400? Is EPA counting them in the 400?

21 **MR. MICHAEL HURLEY:** I'm not even sure.  
22 And I think one of the issues, too, would be beyond  
23 just the regular TSDs is recycling facilities who are  
24 not traditionally lumped in with the TSDFs. So they

1 do take waste on a manifest and I think that would  
2 need to be looked into.

3 **MS. CINDY WALCZAK:** Right. And I think  
4 all sanitary landfills will take TSCA or asbestos  
5 waste. So you've got that NSW universe, I think.

6 **MR. MICHAEL HURLEY:** Right. If it went  
7 on a manifest, it would've -- whether it needed to be  
8 on a manifest, I guess that's a different question.  
9 if you're just using a manifest as a shipping  
10 document, it's non-regulated waste, it's trash,  
11 basically. There's no reason to put it on a manifest,  
12 but if the shipper wants it that way, then there you  
13 have it. You know, it's been manifested. But you  
14 wouldn't capture a fee for that because it's going to  
15 go to a "not as" endpoint.

16 **MS. CINDY WALCZAK:** Maybe it's state-  
17 specific. My experience is somewhat limited, but  
18 we've got in our state, PCBs less than 50 and it has  
19 to go on a manifest. I don't know if that's  
20 throughout the country or state-specific.

21 **MR. MICHAEL HURLEY:** Okay. So there'd  
22 be some state variance.

23 **MR. TOM BAKER:** It may help, Rich, I  
24 know there's been some other discussion surrounding



1 this scope of what manifest data will be tracked in  
2 this system. We talk about PCBs, state hazardous  
3 waste. There is the voluntary use of a manifest to  
4 track non-hazardous waste. Then there is also non-  
5 hazardous waste that's placed on a hazardous waste  
6 manifest with other hazardous waste containers.

7 Can you clarify that point so we're all  
8 thinking about it the same way, as far as what is the  
9 system intending to track as far as -- other than the  
10 RCRA hazardous waste that we're all familiar with?

11 **MR. RICHARD LASHIER:** Well, the system,  
12 in terms of the latitude provided by the statute, the  
13 system is available or it's eligible, we could say,  
14 for state-regulated waste to be tracked in the system.  
15 Now, for Phase I, we've tried to keep the whole issue  
16 of exports, those types of manifest, sort of as  
17 another phase to be looked at later. I'm not even  
18 sure if PCB waste would be included in that first  
19 phase. Although they can be state-regulated waste.  
20 There are TSCA waste as well. So we haven't really  
21 had a discrete discussion about how PCB waste would be  
22 entered into the system for Phase I.

23 So right now it's a case, basically, we  
24 know that the conventional RCRA waste would be the

1 bulk of what's going in the system on RCRA manifests.  
2 And to us, it's this unknown quantity of additional  
3 state-regulated waste. I mean, we'd hope to get some  
4 clarification, members of this group or others as to  
5 how much that might entail.

6 I know in comments we got from Joshua,  
7 he made it sound as though they know what the other  
8 half of these kinds are. So that's why I have pause  
9 about trying to even hazard a guess as to how many  
10 there are and where they might be since I haven't  
11 really seen any clear indication of that from some of  
12 the state folks as to what we're dealing with. But  
13 under the statute, they're eligible. The next  
14 question is to where we draw the line, I guess, for  
15 Phase I. Do we want to make some arbitrary cutoff at  
16 some point just to reign in our activities and reign  
17 in our costs? How do we handle that here?

18 **MR. STEPHEN DONNELLY:** This is Steve  
19 Donnelly. Just for a little clarification, so e-  
20 Manifest released two, which is what we're calling  
21 Phase I. That's what's going to be launching. We do  
22 have user storage created for a PCB manifest  
23 discrepancy -- not discrepancies, but sort of what  
24 you're talking about, what you're alluding to sort of

1 the odd-man-out manifests. So we do have those  
2 created. We haven't put them into test, but yes, we  
3 have considered those.

4 **MR. BARNES JOHNSON:** John.

5 **MR. JOHN RIDGWAY:** John Ridgway from  
6 Washington State. I don't think we have too many  
7 state-only TSDs that would be applicable. I am trying  
8 to figure that right now. That would be something  
9 that, as a Board member, I will continue to pursue to  
10 find out more about, particularly from the states in  
11 my region. That might be a good question for EPA to  
12 pursue through your regions, your RCRA programs. Even  
13 if it's not RCRA waste, I would assume your regions  
14 would understand what states do have state-only waste,  
15 and more specifically, TSDs that are specific to that  
16 that you're not considering.

17 My guess, and that's all this is worth,  
18 there's not going to be that many more. It's not  
19 going to -- relative to a revenue potential, I  
20 wouldn't bank on that bring a lot more in, from my  
21 limited understanding.

22 **MR. RICHARD LASHIER:** To clarify, John,  
23 do you think that the greater concern, in terms of the  
24 number of additional facilities, state-regulated

1 waste, might revolve around the subtitle D facilities  
2 taking some of the very small or CE squeegee wastes?

3 **MR. JOHN RIDGWAY:** I honestly don't  
4 know. I'd have to get back to you on that. I'm  
5 sorry.

6 **MS. CINDY WALCZAK:** I don't feel like  
7 Tom's question was addressed in a way that I  
8 understood. So if I could ask again. At this point  
9 in time, are you envisioning that anything on a  
10 manifest goes into e-Manifest or anything with a waste  
11 code goes into the e-Manifest or only federally RCRA-  
12 regulated waste? Does that make sense?

13 **MR. RICHARD LASHIER:** You're asking me  
14 to provide a precision that doesn't exist. We know  
15 there are a great number of federal RCRA hazardous  
16 wastes and TSDFs that we are very well aware of that  
17 will certainly be expected to participate and the  
18 statute provided the means for state regulated waste  
19 that are required by state law to carry a manifest to  
20 also be entered into the system.

21 And that's where we have a certain  
22 amount of doubt at EPA as to what we're getting into,  
23 if they are above and beyond the permitted TSDFs we  
24 already know about. I guess, I suppose in many cases

1 it may be one in the same facilities, just taking  
2 additional state-regulated waste, but there may be  
3 subtitle D facilities and others that we are not  
4 currently viewing as hazardous waste facilities that  
5 may be coming into the picture for the first time  
6 because of the statute.

7 **MS. CINDY WALCZAK:** Right. So in the  
8 state of Michigan, though, it had been the case that  
9 all liquid waste went on a manifest. They recently  
10 changed that, but generators continue to use manifests  
11 for all liquid waste. And that could be a tanker  
12 truck to a wastewater treatment plant. I mean --

13 **MR. RICHARD LASHIER:** And I heard about  
14 the volunteer. I don't think the voluntarily use  
15 would even qualify to the statute because it says  
16 they're required by the law to use the manifest for  
17 those waste. So I think maybe the voluntaries are  
18 safely presumed to be out. but our concern is we  
19 don't really have a great handle on the state  
20 regulated wastes required by state law, how many they  
21 are. How many are above and beyond the ones we know  
22 about that are RCRA TSDFs. And I wish I could provide  
23 you that clarification but I can't.

24 **MR. ROBERT KLOPP:** I'm going to say two

1 things. The first is if I build this system to allow  
2 them to be a line items that represent waste that go  
3 through a process of moving from a generator to a  
4 receiving facility, it doesn't seem like there's  
5 significant additional costs to letting people put  
6 other manifest items on the manifest and ship them in  
7 the same thing. And if you're trying to delight your  
8 customers, I would probably say let's just let them do  
9 that. That's probably the first thing that I would  
10 say.

11 And then the second thing is, back to  
12 the question really about, you know, getting money  
13 upfront. And this is where -- I'm going to tell you  
14 how the private industry would do this if we were a  
15 software company. And I'm going to suggest right up  
16 front that it might me that you can't do this as a  
17 government, but I don't know, so I'll throw it out.

18 So if I was a software company and I am  
19 wanted and sent people to come onboard sooner, even  
20 before I even have a product, like maybe you can even  
21 get people to pay tomorrow because I give them a  
22 financial incentive to do that. I basically say you  
23 know what, I'm going to give you 50 percent off for  
24 the first three years if you give me a million bucks

1 now, right.

2 And, you know, people are going to  
3 scratch their head and go how is this going to work?  
4 But since this isn't totally a commercial deal and  
5 they're ultimately going to be sort of directed to  
6 start paying you anyway, then some people are going to  
7 go well, okay I'm going to do that because saving 50  
8 is a good thing for me. Other people will say no, I'm  
9 not going to do that. The thing to recognize is that  
10 in the end, the 50 percent savings that somebody got  
11 upfront is going to be paid for by somebody later on.  
12 There's no free lunch in this thing, right.

13 So the way that I would've responded to  
14 this question is ask yourself, you know, I mean, this  
15 is a market thing. Ask yourself how big of a discount  
16 do you need to offer to these folks in order to get  
17 them to write you a check tomorrow and actually get  
18 the funding to go build the team up and get this thing  
19 out better, faster, cheaper and stuff like that.

20 There's nothing that say that you can't  
21 start billing them tomorrow, right. So again, like I  
22 said, with the caveat being that it could be that you  
23 just can't actually do these kinds of things, what I  
24 would say is, ask yourself whether or not you could

1 offer earlier adopters a discount to write you a check  
2 early.

3 **MR. BARNES JOHNSON:** Thanks, Rob.

4 Okay. Any more thoughts from the Board?

5 Justin.

6 **MR. JUSTIN WILSON:** I never got to go  
7 as an associate.

8 **MR. BARNES JOHNSON:** Oh, I'm sorry.

9 I'm sorry. My bad. Okay. Keeping me honest here.

10 **MR. JUSTIN WILSON:** Regarding 4B,  
11 getting a little off track, but from what we heard  
12 proposed from Rob when we were discussing 4A was a  
13 subscription fee type system. And I think with a  
14 subscription fee based system on maybe you look at the  
15 TSDFs and you set a range, you'll pay this much for  
16 this range of manifest received annually, based on the  
17 previous year. And then the TSDFs will have to  
18 conduct the same type of analysis for each of their  
19 generators that they're receiving waste from which is,  
20 you know, they'll have to figure out on their own in  
21 this range, we'll charge this much in these ranges to  
22 recoup our expense with the EPA. What I do like about  
23 that very much is the non-reconciliation at the end of  
24 the year.



1           So if your subscription fees at the end  
2 of the year, you have a surplus in your account  
3 because the system doesn't cost as much to operate as  
4 you anticipated, then you just simply lower the  
5 subscription fee the following year. Or increase it  
6 if you did not receive enough funds to maintain it.

7           In that scenario, I know my company, as  
8 a generator, will not have to forecast throughout the  
9 year what could happen at the end of the year by some  
10 other manifest we're getting. We won't have to work  
11 as diligently with our service providers to reduce,  
12 you know, what's the ROI on changing a waste stream to  
13 go to a different TSDF. Therefore, we've added  
14 another manifest per shipment. There's all of that  
15 analysis that will be going on if you simply base it  
16 on per manifest.

17           In our situation, we'll liable to have  
18 four manifests per shipment, per service event. And  
19 that's because of logistics and what TSDFs are they  
20 going to, what type of waste they are. They do add  
21 non-RCRA waste to manifest because it's allowed. But  
22 in that case, I've got to sit there and figure out the  
23 ROI and tell my service providers to switch from  
24 adding it to the line on existing manifests to put all

1 of these items on a BOL, and maybe that'll happen  
2 anywhere. If we see there's cost saving in that and  
3 it's worth it, I'm sure that'll happen.

4 I got a little off track. To get back  
5 on, I think that the real resolution in annual  
6 subscriptions. The TSDFs then charge an annual  
7 subscription to their generators and it'll be adjusted  
8 annually. I also look at the TSDF may look at this as  
9 a revenue source and greatly increase the fees for the  
10 generators for these manifest subscription, but that's  
11 business.

12 You know, as I stated before, that's  
13 simply business. We have the option to say we don't  
14 like the amount of fees we're being charged at this  
15 TSDF, so we'll go to another, based on their fees. So  
16 I'm not going to worry too much about that upcharge  
17 for now. Thank you.

18 **MR. TOM BAKER:** So before I summarize,  
19 Justin raises a great point there about the challenges  
20 with it being more of a registration and the position  
21 it puts the receiving facility in with their  
22 customers, you know, trying to charge back those fees  
23 in an equitable fashion when it's not based on a per  
24 manifest activity. It's very difficult. And they'll

1 be different approaches, certainly between receiving  
2 facilities across the industry and how they charge  
3 that back to customers and that may be a good thing  
4 from a perspective of a generator, but it certainly  
5 will be a challenging and a new issue or deal with as  
6 a receiving facility, which it can be viewed as very  
7 desirable.

8 So I guess I would comment before I  
9 summarize, is that if we go to a registration type fee  
10 that is more standardized that that be linked as part  
11 of the registration process for a generator, for a  
12 transporter, for a TSDF, so that can billed directly  
13 to the entity involved, not through the TSDF.

14 I think that would be a more workable  
15 solution that certainly I think the receiving  
16 facilities would prefer over having to be the go-  
17 between between paying those fees upfront and then  
18 having to pass on a variable cost back to their  
19 customer.

20 **MR. JUSTIN WILSON:** I just want to  
21 comment on that. Where I get a little -- I totally  
22 understand your position in that, Tom. Where I get a  
23 little confused for the generator is that I'm sending  
24 multiple varying waste streams to multiple TSDFs and

1 if the EPA is charging me as the generator, directly,  
2 I almost feel like for you to know that you're getting  
3 -- that what I state was my previous years' -- I'm  
4 trying to figure this out.

5 So you guys will have to do some  
6 validation on your side. Meaning, you're going to be  
7 receiving manifests from various TSDFs that originated  
8 from me, as the generator. And I've told you how many  
9 manifests I generate per year. And maybe I missed the  
10 boat on how many that was.

11 I think on your end, you'll still have  
12 to look at everything that was uploaded after a year  
13 and see if what you're billing me directly, at least  
14 the lines with a number of manifest I claimed, I  
15 submit annually. So it's just going to take more  
16 discussion, whichever way we go, to really drill down  
17 how to keep this system valid without an erroneous  
18 amount of labor at it.

19 **MR. BARNES JOHNSON:** So Rich, can you  
20 clarify what our lead option was in terms of billing?  
21 I don't believe our lead option was to bill --

22 **MR. RICHARD LASHIER:** No, the lead  
23 option was to bill monthly.

24 **MR. BARNES JOHNSON:** And not to bill

1 generators.

2 **MR. RICHARD LASHIER:** Not to bill  
3 generators.

4 **MR. BARNES JOHNSON:** Not to bill  
5 generators but to bill the TSDFs monthly for their  
6 month space of manifest usage based on the system  
7 data. That data would be in the system, indicating  
8 who submitted manifests during that month and then  
9 there would be an electronic invoice to the TSDF and  
10 electronic payment to follow.

11 **MS. CINDY WALCZAK:** And if I could add,  
12 I think the heavy user is the TSDF. So to charge per  
13 manifest that are prorated or put us in a small,  
14 medium, large category on the generator or transporter  
15 side, that really doesn't represent our burden on the  
16 system because we're probably just going in to make  
17 sure the TSDF have got the waste, whereas the burden  
18 on the system is really coming from the TSDF  
19 typically, who's generating the manifest, uploading  
20 the data and everything. So I don't think their 100  
21 manifest are the same as a generator's 100 manifest,  
22 if you will.

23 **MR. BARNES JOHNSON:** John.

24 **MR. JOHN RIDGWAY:** And this is

1 brainstorming again. So I'm not fully vetted in any  
2 means, but given there are so many unknowns, with the  
3 cost of the system, deployment, all the other related  
4 dynamics, maybe it's possible to come up with a first  
5 year way to get some base money through the ideas that  
6 have been presented here, and/or others, to ensure  
7 that you have some funding.

8           Also with the understanding that it's  
9 just an initial way to ensure there's some fiscal  
10 stability and continue to address this question after  
11 you have a much better idea of usage and system  
12 development cost and you're getting into the  
13 maintenance mode. I think it's going to be a lot  
14 easier to then understand really how much you'll need  
15 and usage and options for trying to recover those  
16 costs.

17           **MR. BARNES JOHNSON:** Okay. Thanks,  
18 John. So Tom, would you care to summarize the  
19 conversation on 4B?

20           **MR. TOM BAKER:** Sure. So I think the  
21 initial question was focused on essentially pushing  
22 the receiving facilities into a system where they  
23 would be required to be part of a prepayment program  
24 to get the seed money in place to assure stability for

1 EPA's funding. And I guess the initial response was  
2 that that's not a reasonable solution and I didn't  
3 hear anything differently if anybody had said that was  
4 not -- they were in disagreement about that.

5 We did talk about some other  
6 alternatives for providing financial incentives.  
7 Prepayment options that would provide maybe larger  
8 discounts that might be attractive over a long term,  
9 as well as this concept of looking at -- going from a  
10 per manifest billing process to more of a registration  
11 or a user system fee that might be charged to a  
12 broader base, not just TSDFs. Different discussions  
13 about how you would do that, but that was kind of the  
14 scope of the discussion.

15 **MR. BARNES JOHNSON:** All right. Thank  
16 you. Okay. So that brings us to lunch. We will  
17 restart at 12:55.

18 (Luncheon recess.)

19 **MR. BARNES JOHNSON:** Okay. We've got a  
20 bit of -- just a bit of housekeeping here to start off  
21 the afternoon. As we were kind of keeping track of  
22 the conversation, there were a couple of issues that  
23 had been raised by the Board members. One I think  
24 we'll blame John Ridgway for this one.

1           John wanted to see sort of a summary of  
2 the programs by state that in some way, shape, or form  
3 -- you know, in some automated way, shape, or form  
4 handle manifest today. So we have a one-pager here  
5 that we're going to distribute to the Board. And of  
6 course, we'll put it into the docket for the meeting.

7           Okay. Yeah. And well, you know, also,  
8 if you can take a few moments this afternoon and  
9 glance at this. If any questions come to mind or  
10 issues come from this that you'd like to raise, we can  
11 take this up before we end today.

12           The other one is, I believe, Cindy  
13 asked a question about the DOT shipping paper  
14 recordkeeping requirements. So we have at least some  
15 excerpts of information here for folks to take a look  
16 at. And again, if this -- we can discuss before we  
17 leave. Yeah.

18           Okay. Getting back to our agenda.

19           Yes, John?

20           **MR. JOHN RIDGWAY:** The source of the  
21 trouble-causer right here, I want to say thank you  
22 very much to you and the EPA staff who assembled this  
23 chart. It's appreciated, so, again, in the time  
24 frame. Thank you very much.



1                   **MR. BARNES JOHNSON:** Yeah, absolutely.  
2                   Absolutely.

3                   Fred, would like to interject here as  
4                   well?

5                   **DR. FRED JENKINS:** And if you can -- if  
6                   you want to briefly consume it and then take that  
7                   additional information to add to your advice to the  
8                   Agency on previous charge questions, now is the time  
9                   to do it.

10                  Sorry you don't have much time -- but  
11                  for the record, if you have any additional advice you  
12                  want to provide to the Agency, given that additional  
13                  information you all requested.

14                  **MR. JOHN RIDGWAY:** I can respond to  
15                  that. Then that -- it seems to me these are the key  
16                  states that we, the Board, and/or EPA want to check in  
17                  with over this next year, in particular, because of  
18                  the dual regulatory implications, perhaps. That's --  
19                  I'll just leave it at that.

20                  Thank you.

21                  **MR. BARNES JOHNSON:** Okay. All right.  
22                  So we are going to begin to tackle Question 5.  
23                  Question 5 is all about the hybrid approach. And for  
24                  folks that had been part of the conversation so far,

1 we had energy on this, I think, from the moment we  
2 started our conversation two days ago, including this  
3 morning.

4 So some of this has already been  
5 discussed a bit. But this is a time, I think, to  
6 really just -- for the Board to distill its views on  
7 the issues raised in Question 5.

8 So I'm going to invite MiMi Guernica to  
9 present Question 5A to the Board.

10 **MS. MIMI GUERNICA:** Okay. This is to  
11 launch the hybrid discussion in a formal way.

12 5A reads, "Can the Board suggest  
13 alternatives to the industry commenters' approach that  
14 would provide a workable and credible path to  
15 widespread use of electronic manifests?"

16 **MR. BARNES JOHNSON:** Okay. And our  
17 discussant is Tom Baker. And I will just point out  
18 that, as a matter of clarification, earlier in the  
19 day, Rich tried to explain to the Board what the  
20 industry commenters' approach was. I know he's more  
21 than happy to provide any additional clarification  
22 that might be needed in this regard.

23 But I'm going to turn it over to Tom to  
24 begin the Board's conversation about this question.

1                   **MR. TOM BAKER:** Okay. So I guess two  
2 things I wanted to say upfront is I think it's  
3 important if we look at the -- what the goals of the  
4 One Year Rule were because I think it's important to  
5 understand what we're trying to achieve through e-  
6 Manifesting.

7                   And we talk about a hybrid approach and  
8 a phased approach. I think it's important to  
9 understand when we achieve those goals throughout this  
10 process because some are achieved to different parts  
11 of this phased approach.

12                   And I guess I'm going to speak about a  
13 -- the hybrid approach as a phased approach, not the  
14 limit -- I'll call it the limited EPA model of a  
15 hybrid where it's just a -- it's almost like a  
16 solution to a time when we can't continue an  
17 electronic manifest because of technology issues, or  
18 whenever we go from electronic to paper temporarily  
19 but yet the overall process is electronic.

20                   So when we'll now refer to a hybrid, or  
21 I'll try to use the term "a phased approach." And  
22 that'll be mostly my focus, which is the industry's  
23 approach that we referred to earlier.

24                   And I think if -- Rich, if you could

1 just take just a minute or two and remind us of what  
2 the goals are of the One Year Rule in light of what  
3 we're trying to accomplish.

4 Thanks.

5 **MR. RICHARD LASHIER:** Well, thank you,  
6 Tom.

7 I mean, the goal of the One Year Rule,  
8 of course, was to implement the e-Manifest Act, whose  
9 overarching purposes in creating e-Manifest we saw as,  
10 one, reducing the burden, particularly the paperwork  
11 burden of handling and using the hazardous waste  
12 manifest.

13 Again, another one was better and more  
14 timely access to shipment data. A third interest was  
15 having greater public access to information on waste  
16 shipments where they're managed.

17 Fourth, would be the improved  
18 monitoring and enforcement of issues and any issues  
19 that arise with those shipments like waste not  
20 arriving within a reasonable time or discrepancies,  
21 exceptions that occur under the manifest process,  
22 having more timely access to those issues and red  
23 flags when they pop up.

24 And then finally, I guess the other --

1 the key interest we've identified over time has been  
2 the consolidation of various federal and electronic  
3 reporting requirements -- not only the issue of the  
4 various standalone state tracking programs, but the  
5 issue of the biannual report as an every-two-year  
6 census of waste receipt reports and the e-Manifest  
7 being a way to perhaps to consolidate and make more  
8 streamlined these various federal and state reporting  
9 systems that deal with summarizing waste management.

10 **MR. TOM BAKER:** Okay. Thank you for  
11 doing that. I appreciate it.

12 **MR. RICHARD LASHIER:** Mm-hmm

13 **MR. TOM BAKER:** So I'm trying to take  
14 this, you know, one question at a time because this  
15 is, I think, a five-part charge question. So there's  
16 a lot here to discuss.

17 But the first one speaks specifically  
18 of alternatives to an approach that provided a  
19 workable and credible path to widespread use of the e-  
20 Manifest system. And I guess I read that as being,  
21 you know, the purest sense of the e-Manifest system  
22 from start to finish being electronic and all the  
23 hand-offs between generators, transporters, and TSDFs  
24 being electronic.

1                   **MR. RICHARD LASHIER:**   Yep.

2                   **MR. TOM BAKER:**   You know, I think it's  
3 from a perspective of industry that if the system  
4 works, provides benefits, the user community reduces  
5 burden, if it's simple and effective to use, people  
6 will use it. I think it's that simple.

7                   I think you want to implement and move  
8 to a widespread use in a quicker manner. It's going  
9 to really be on the user experience to show that it  
10 has value.

11                   There'll be fees being charged  
12 regardless of whether it's paper, electronic, hybrid,  
13 whatever we're going to call it. So the fee structure  
14 alone can't be the incentive to move the e-Manifest.  
15 It's got to be a technological advantage and a user  
16 experience benefit.

17                   So I'll leave it at that for -- to key  
18 up this topic and see what else folks have to comment  
19 around the table.

20                   **MR. BARNES JOHNSON:**   Okay. Robert.

21                   **MR. ROBERT KLOPP:**   Yes. So I'm going  
22 to kind of go bizarre again, I'm afraid.

23                   You know, it seems to me that the whole  
24 idea that the manifest is important is out of date.

1 And what I mean by that is what we really care about  
2 is not manifests at all. What we care about is  
3 containers of hazardous waste materials and where are  
4 they at any point in time.

5 And a manifest is really -- I mean,  
6 it's actually a legacy from, you know, shipping things  
7 on boats and stuff like that and being able to make  
8 sure that there's no pilfering because you count the  
9 barrels of rum that went on and they count the barrels  
10 of rum that came off. And you make sure that they had  
11 the same. And in the day, the only way you could do  
12 that is with a paper manifest.

13 But if you think about other more  
14 modern shipping things, you know, a FedEx truck driver  
15 gets 1,000 boxes, i.e., containers loaded on his  
16 truck, and there's no manifest. Its manifest is  
17 virtual. The people, they scan the boxes, and they  
18 know what numbers of boxes are on. And they scan the  
19 truck, and they know they're on that truck. And now  
20 the guy drives and takes a box off and hands it to a  
21 customer and scans the box.

22 And at any given point in time, FedEx  
23 knows exactly what containers are on that truck, and  
24 they never create a manifest. It's a virtual thing

1 that's very dynamic in time. But they know exactly  
2 what boxes are where at all points in time.

3 And I think that that's really the  
4 problem that we're trying to solve for. I think it's  
5 not about manifests at all. And the fact is, you  
6 know, when I listen to everybody talking about the  
7 problems that they have in playing in this system tied  
8 to an EPA electronic manifest, part of what I'm  
9 hearing is people saying, look, we have the -- we put  
10 barcodes on these containers.

11 We know where the containers are. We  
12 know the containers are -- we scan the container when  
13 it leaves our facility, and the trucker scans their  
14 container when they put it on a truck. And the  
15 trucker scans the container when they take it off the  
16 truck and put it in a temporary facility. And the  
17 temporary facility scans it to say that they've got  
18 it.

19 And so the fact is that there are  
20 systems in place now, highly proprietary, important  
21 systems in place that actually can track where all of  
22 this hazardous waste is at any point in time. And for  
23 us to try to lay this electronic manifest, which by  
24 the way might only be a fraction of the things that



1 are on the truck.

2 And we've already talked about  
3 sometimes there's things on the manifest that don't --  
4 EPA doesn't care about and that it's different than  
5 the manifest that DOT provides and all that stuff.  
6 That's because we're focused on manifests instead of  
7 focused on containers of hazardous wastes.

8 And so I wonder whether or not the real  
9 solution here isn't to think about the electronic  
10 manifest as being a virtual electronic manifest and  
11 pay more attention to focusing on knowing where  
12 containers of hazardous wastes are at all point in  
13 time and interfacing to the systems that the  
14 generators have to register containers and  
15 transporters have to register the fact that they've  
16 accepted a container on a transport vehicle and  
17 storage facilities that some of which are intermediate  
18 and right now we don't even know about them in the  
19 electronic manifest because we think about responsible  
20 parties for manifests instead of where is the  
21 container at a time.

22 I think that there could actually be a  
23 much simpler system that has a cleaner interface to  
24 all of the commercial generators and transporters and

1 intermediate storage places and aggregators and all  
2 that sort of stuff.

3           There just might be a much simpler way  
4 for us to think about this whole problem if we thought  
5 about how we would track where is a container of  
6 hazardous waste at any point in time instead of  
7 thinking about the manifest, which is a -- you know,  
8 just that -- that just seems like sort of an article,  
9 you know, that just doesn't seem like there -- the  
10 objective isn't about manifests. It's about  
11 containers, in my opinion.

12           So I know I started this off by saying  
13 I was going to go bizarre. Hopefully, you recognize  
14 just how bizarre I went.

15           **MR. BARNES JOHNSON:** Okay. Thanks,  
16 Robert.

17           John, please.

18           **MR. JOHN RIDGWAY:** There's a missing  
19 element to what we just heard. And I appreciate the  
20 creative thinking around this and, you know, better  
21 ways to crack a nut.

22           The one thing that, Rob, you didn't  
23 bring up is, unlike FedEx or any other delivery  
24 system, the contents are the issue, not just whether

1 all the boxes got to where they need to go. And in  
2 particular, they're an issue for liability purposes,  
3 for whoever's controlling that container at a given  
4 time, including the emergency responders. This is a  
5 big difference, and this is why there needs to be  
6 detailed information about the contents, not just the  
7 location.

8 And I'll leave it at that.

9 **MR. ROBERT KLOPP:** Completely agree.  
10 But that wouldn't -- that's about the contents of a  
11 container and tracking the container once I know the  
12 contents. It's not about a manifest.

13 **MR. JOHN RIDGWAY:** I agree.

14 **MS. CYNTHIA WALCZAK:** And if I could  
15 add, FedEx is a perfect example. They do accept  
16 Hazmat. So they have a hazardous declaration form  
17 which could, in fact, serve the chain of custody  
18 requirements and DOT requirements.

19 So it isn't that FedEx doesn't have a  
20 model for how to ship hazmat in a compliant way. It  
21 has a piece of paper that goes with it. But it's not  
22 the track -- that hazmat declaration is to satisfy  
23 regulatory requirements and not to track the package.

24 **MR. TOM BAKER:** So just to be -- so

1 wouldn't, though, the information that's on the paper  
2 is related to the container, right? And so -- right?  
3 And so yes, it's --

4 **MS. CYNTHIA WALCZAK:** The --

5 **MR. TOM BAKER:** -- two things, but  
6 they're related. And you know, databases do that.  
7 It's --

8 **MS. CYNTHIA WALCZAK:** Right. Your  
9 hazmat declaration has your tracking number on it.  
10 And when I say Hazmat, I mean nonhazardous wastes.  
11 Anything that's a product that FedEx allows you to  
12 ship, they have hazmat declarations, and it's much  
13 simpler than their current process, yeah.

14 **MR. JOHN RIDGWAY:** Cindy, so you are  
15 our next discussant. Do you have more to add other  
16 than --

17 **MS. CYNTHIA WALCZAK:** Yeah. If I could  
18 move the discussion back to more familiar ground, that  
19 is -- sorry, I lost my train of thought. I was quite  
20 engaged in what you were saying.

21 Yes, I have a concern that I think EPA  
22 has expressed as well. And that is -- first, let me  
23 say that it sounds to me as if we're going with the  
24 hybrid approach because we have issues with the --

1 there's a couple issues. But the primary driver is  
2 CROMERR.

3 And that is if we can't have generators  
4 signing -- if the government won't accept electronic  
5 signatures from people that don't have background  
6 checks and double -- you know, and tokens and random  
7 number generators on their person at all times, then  
8 we can't go fully electronic.

9 We're going to do hybrid until we  
10 figure that out. But you may never figure that out,  
11 right? There's no guarantee we'll ever sort through  
12 that.

13 We could be on this temporary approach.  
14 That, in fact, becomes a permanent approach.

15 I think, speaking only for myself, I  
16 mean, the hybrid approach, in my opinion, doesn't  
17 relieve any significant burden from the generator.  
18 Having said that, as a generator, I probably would  
19 accept and acknowledge that if I needed it at a year  
20 or two, that it was just a stage. It was just a  
21 phase.

22 But I don't really think it's -- I  
23 think it's quite possible it's not a stage or a phase  
24 at all, that it is the permanent solution because the

1 CROMERR or signatory issues never get resolved. And  
2 so why would we sign up for a temporary or phased-in  
3 approach when there's no final resolution in sight?

4 That's all I have.

5 **MR. JOHN RIDGWAY:** Okay. Justin?

6 **MR. JUSTIN WILSON:** I had the same  
7 concerns that Cindy did in that I don't see us since -  
8 - I don't have confidence in that the hybrid approach  
9 would go away soon for the same reasons.

10 The question that I -- the way I  
11 interpret this 5A is that industry commented on the  
12 hybrid approach. And I want to get -- I want to make  
13 sure I understand this right, Richard.

14 Industry suggested that, rather than  
15 just giving a paper exemption to generators, you give  
16 a paper exemption to generators and transporters,  
17 meaning the current paper manifest will start from the  
18 generator site, carry through as it does today with  
19 the transporters, and be handed to the TSD facilities,  
20 or receivers. Then that paper's terminated, and the  
21 receivers would upload the information to the e-  
22 Manifest system.

23 Do I understand the comment or  
24 suggestion?

1                   **MR. RICHARD LASHIER:** You're basically  
2 on point. I mean, with the industry Phase I  
3 suggestion, the paper continues all the to the TSDF,  
4 up to and including the TSDF signing that paper in  
5 ink. And then at some later point in time, their  
6 environmental health and safety staff go through the  
7 manifest they receive from their receiving personnel,  
8 and they key in the data, upload it, and then certify  
9 to that data when they do the upload.

10                   The paper manifest pretty much stay  
11 intact throughout -- all the way to the TSDF. And  
12 then there's an up -- to upload to the data system at  
13 the backend.

14                   **MR. JUSTIN WILSON:** Okay. Thank you.

15                   **MR. RICHARD LASHIER:** Mm-hmm.

16                   **MR. JUSTIN WILSON:** So as a what I  
17 consider a representative of at least part of the  
18 generator community is here's how I see the industry  
19 commenters' approach working for the generators.

20                   And that is generators would see no  
21 real change in that -- I think, essentially, what  
22 would -- what we would require is that those TSDFs  
23 that sign that final manifest in ink continue to mail  
24 that manifest back to the generator because if they

1 don't and we go with the EPA's proposed hybrid  
2 approach and we don't receive that document in the  
3 mail as we do today, it's more cumbersome for the  
4 generators to keep up with ensuring that waste was  
5 properly disposed by logging on to the system, keeping  
6 up with passwords, as I mentioned before, and  
7 essentially likely having to print something just to  
8 show inspectors that they've done their due diligence,  
9 you know, and what they're required to do cradle to  
10 grave.

11 The alternative I'd suggest is that  
12 nothing changes for the generator. The TSDFs would  
13 mail. And maybe that's just a contractual agreement  
14 between the generator and TSDF that, as part of your  
15 service, I need a final copy mailed, okay? So that's  
16 how that could work.

17 Another option I see is allowing  
18 generators to go to the fully electronic system from  
19 generator through TSDF up to EPA early, within a year,  
20 I would say. And the reason I say that is if the  
21 generator can -- decides to invest in the technology  
22 to sign and meet the requirements of CROMERR, then  
23 their invest -- their ROI on that investment is no  
24 longer having to retain paper copies, which is kind of



1 what many of us generators have been excited about  
2 since the beginning of this idea.

3 So that's what I would suggest.

4 Go ahead.

5 **MR. RICHARD LASHIER:** Can I ask a  
6 clarifying question, Justin?

7 In terms of the generators such as  
8 Walmart being ready and eager to go electronic  
9 earlier, how would that be affected if, indeed, the  
10 policy were that the offerors who prepare the shipment  
11 can sign on behalf of the generator?

12 **MR. JUSTIN WILSON:** I would actually  
13 not be investing in the technology as the generator  
14 since I have some service company, the offeror,  
15 signing on our behalf. I would actually be looking to  
16 that contractor to invest in the technology so that  
17 their technicians who sign on our behalf are the ones  
18 that get CROMERR registered, certified, background  
19 check, whatever that terminology is, rather than my  
20 direct employees and having to keep up with that.

21 They would actually perform, and it  
22 would give them potentially a service offering  
23 competitive edge. That would be the benefit for them  
24 versus their competition.

1                   **MR. RICHARD LASHIER:** Would that be a  
2 development you would embrace?

3                   **MR. JUSTIN WILSON:** Absolutely because  
4 that would get me out of paper record retention at my  
5 sites. I would request that of my contractors, that  
6 they invest in that technology. The thing is I don't  
7 know what that investment is, what it would cost them  
8 to put that technology in place.

9                   With that in mind, I had a question for  
10 you about when this CROMERR process and legally  
11 binding signature was discussed heavily with your  
12 enforcement branch. Did the TCEQ, that being Texas  
13 environmental agency, process ever come up, which is  
14 that they have an online system where you enter your  
15 profiles for your waste and all that?

16                   In their system, you have to send them  
17 wet ink signature, paper, set up an account that's  
18 directly tied to your company email address. And in  
19 that company email address is where you can type in  
20 your name. They've got a copy of wet ink in their  
21 office. They hold you accountable for that. It's  
22 just a typed signature, but they're holding an  
23 original.

24                   And they claim in their documents that

1 they -- that that's enforceable, you know, that you  
2 utilize that, you're responsible for that. And if you  
3 leave your company, you leave your position, you're  
4 required to notify them that you'll no longer be the  
5 signator for that electronic system.

6 I see if that is an option or could be  
7 an option, then our contractors, technicians who are  
8 signing on our behalf could have an account like that  
9 with the EPA e-Manifest system and could simply type  
10 in their name by utilizing their work email system in  
11 there because they've all got laptops. They've all  
12 got computers.

13 **MR. RICHARD LASHIER:** Yeah, I'm not  
14 familiar with the specifics of the TCEQ approach you  
15 just mentioned. But as far as the offerors go, if  
16 it's the service company such as the transporters that  
17 we've been talking about earlier in this room and  
18 during this meeting, they probably would have far less  
19 difficulty dealing with the current CROMERR  
20 requirements than many thousands of Walmart employees  
21 working --

22 **MR. JUSTIN WILSON:** Correct.

23 **MR. RICHARD LASHIER:** -- individual  
24 sites. That's in the assumption. And that's why

1 we've always been interested in exploring that  
2 flexibility that might be offered by the offeror  
3 approach at generator sites to see if that in some way  
4 doesn't resolve the dilemma for folks like you.

5 **MR. JUSTIN WILSON:** And I --

6 **MS. CYNTHIA WALCZAK:** I think you need  
7 to get with DOT on that again. The offeror is the  
8 generator. I mean, you can have somebody else sign on  
9 behalf of the generator, but then they're signing on  
10 behalf of the offeror. I mean, they're an authorized  
11 -- they're authorized. It's --

12 **MR. RICHARD LASHIER:** Well, we actually  
13 have worked out the offeror and the certification with  
14 DOT on the manifest. And the idea is that preparer of  
15 the shipment who actually has personal knowledge --

16 **MS. CYNTHIA WALCZAK:** Yes.

17 **MR. RICHARD LASHIER:** -- of the facts  
18 of preparation should be the one signing the  
19 certification, as needed, in cases where that's  
20 occurring rather than having the generator sign it or  
21 in addition in lieu of having the generator sign it.  
22 The offeror can sign the manifest if they actually are  
23 aware of its preparation.

24 But that might often be the service

1 companies doing the preparation -- the packaging,  
2 labeling, marking, preparing the manifest. And they  
3 may not be in the same predicament as generator staff  
4 insofar as they're being a harder sell to move into  
5 the e-signature area.

6 **MS. CYNTHIA WALCZAK:** I think it's a  
7 distinction without a difference because right now --  
8 correct me if I'm wrong -- but the offeror is signing  
9 for them. So the companies I work for, they have  
10 already authorized people to sign on their behalf.

11 **MR. RICHARD LASHIER:** Okay.

12 **MS. CYNTHIA WALCZAK:** So they're  
13 signing as a generators, the offeror. But they're  
14 signing on behalf of the company --

15 **MR. RICHARD LASHIER:** Yeah.

16 **MS. CYNTHIA WALCZAK:** -- that's  
17 authorized them to do so.

18 **MR. RICHARD LASHIER:** We only raise  
19 that from the standpoint of in lieu of having  
20 Walmart's employees having to be up to speed and  
21 registered and having signature accounts with EPA.  
22 The offerors who service the -- who may already have  
23 those accounts would also be able to form a signature  
24 rather than having to impose that obligation upon the

1 generators themselves. That's the distinction.

2 **MS. CYNTHIA WALCZAK:** And what I'm  
3 saying is that happens already, so your universe  
4 doesn't change.

5 **MR. RICHARD LASHIER:** Okay.

6 **MS. CYNTHIA WALCZAK:** It -- right now,  
7 your Walmart associates are not signing on behalf of  
8 Walmart. You have a contractor that's signing on  
9 behalf of Walmart. So it doesn't --

10 **MR. RICHARD LASHIER:** Okay.

11 **MS. CYNTHIA WALCZAK:** It doesn't shrink  
12 the universe at all. It's the same --

13 **MR. RICHARD LASHIER:** But it could  
14 alter the scenario that Justin was concerned about by  
15 having to have a paper under one vision of the hybrid  
16 that we talked about and then having to have  
17 electronic version, having to match those up in their  
18 files later on.

19 If the offeror is signing on behalf of  
20 the generator and the generator has an electronic copy  
21 of that offeror signature, then later the TSDF  
22 electronic copy, then you have two electronic versions  
23 in your file as opposed to having to match a paper  
24 with electronic. And that eliminates Justin's issue

1 of having to have two different types of manifest to  
2 sort out and file and download.

3 I'm just trying to probe whether that  
4 makes the issue any more agreeable to the generators  
5 by having --

6 **MS. CYNTHIA WALCZAK:** I think --

7 **MR. RICHARD LASHIER:** -- the offeror --

8 **MS. CYNTHIA WALCZAK:** -- that perhaps  
9 you're using the word offeror when you mean agent. Is  
10 it -- could that --

11 **MR. RICHARD LASHIER:** Yeah.

12 **MS. CYNTHIA WALCZAK:** -- be?

13 **MR. RICHARD LASHIER:** It's the same  
14 issue, the agent -- someone you've designated to act  
15 on your behalf in preparing a shipment for you and  
16 then signing the manifest. Offeror or agent, they're  
17 acting on behalf of you, but you're not actually  
18 having your personnel responsible for that CROMERR  
19 signature.

20 **MR. JUSTIN WILSON:** And we also have  
21 facilities, like, in our distribution network who have  
22 more responsible, more educated folks in this area  
23 that are deemed the responsibility of packaging,  
24 closing, labeling our waste for shipment.

1           And the way I see that is if we go  
2 fully electronic, then they have an option. Those  
3 sites have an option. They can either choose to  
4 invest in technology that allows a legal electronic  
5 signature and continue the practices they do now of  
6 packaging and labeling and preparing for shipment, or  
7 they can decide that investment is not effective for a  
8 single site and hire a contractor, as I mentioned, who  
9 can -- who will then have to package and label --

10           **MR. RICHARD LASHIER:** Right.

11           **MR. JUSTIN WILSON:** -- right, to sign  
12 that manifest or at least agree that it's done  
13 correctly --

14           **MR. RICHARD LASHIER:** Exactly. It's --

15           **MR. JUSTIN WILSON:** -- who has invested  
16 in that technology because they have many sites that  
17 they're supporting in their customer base.

18           The only thing I fear in making this  
19 offer is I don't know the cost of this technology to  
20 meet CROMERR, so though I suggest it just may not be  
21 economically feasible. I don't know.

22           **MR. TOM BAKER:** A question to Rich to  
23 clarify something -- it hasn't been mentioned yet in  
24 our three-day meeting here, but I know it's been part



1 of discussions with this transfer of data from the  
2 TSDF to the central database, is that a pdf image of  
3 that manifest as initial phases would be transmitted  
4 along with the electronic data. Is that correct?

5 **MR. RICHARD LASHIER:** Under which  
6 scenario?

7 **MR. TOM BAKER:** A phased-in approach  
8 whereby the first phase will be to have -- it'll be  
9 receiving facility. Take the paper manifest, wet-ink  
10 sign it, transfer the data to an electronic fashion  
11 for transmittal to EPA's central database.  
12 Accompanying that would be a pdf image of the  
13 manifest. Is that true?

14 **MR. RICHARD LASHIER:** I don't think  
15 anyone's explicitly acknowledged that that's -- that  
16 is the case. Maybe some of the folks working on the  
17 system --

18 **MR. TOM BAKER:** Rich, maybe you can  
19 clarify under the hybrid approach what the e-Manifest  
20 transaction would look like and what the various kinds  
21 of paper transactions would look like in our view.

22 **MR. RICHARD LASHIER:** Okay.

23 **MR. TOM BAKER:** So I mean, for example,  
24 I think when Justin was talking about he wanted the

1 TSD to send that mail back, my sense was that if  
2 that's what was done, that would be a paper manifest  
3 and we would charge at the paper manifest rate.

4 If you instead did that transaction  
5 virtually, that would be an e-Manifest. But I might  
6 have this wrong. So could you clarify how paper  
7 versus fully e-Manifest --

8 **MR. RICHARD LASHIER:** Yeah.

9 **MR. TOM BAKER:** -- works in the hybrid  
10 arena?

11 **MR. RICHARD LASHIER:** I will try. I  
12 mean, in the terms of the paper coming back that were  
13 arranged between you and the service company, I think  
14 the service company is still going to pay the  
15 electronic manifest fee for uploading the electronic  
16 manifest to the system.

17 So if they pass that fee along to you,  
18 you're paying the electronic manifest fee, not the  
19 higher paper manifest fee.

20 And to sort of try to answer Tom's  
21 question, I'd have to sort of talk to the folks who  
22 have been working through this on system development  
23 side to see if they're including the image file upload  
24 as a part of the TSDF transaction to the system. It

1 would seem to have advantages in terms of providing a  
2 means for that information to go back and forth. I'm  
3 not sure that it's been identified explicitly at this  
4 point in time.

5 What about it, Scott?

6 **MR. SCOTT CHRISTIAN:** Yeah. At this  
7 time, the hybrid of the electronic manifest is data  
8 plus an electronic signature. The paper stops outside  
9 the system.

10 The paper plus data is a paper manifest  
11 process which gets charged a paper manifest fee. You  
12 send paper and data, no electronic signature, and then  
13 further along down the various signs (ph) of images.

14 **MR. TOM BAKER:** Let me just stop. I  
15 don't think you answered my question because I think  
16 there was a lot of discussion about a pdf image. I  
17 remember it specifically being discussed on multiple  
18 occasions. Was that just a concept? Or was that an  
19 envisioned phased approach to, you know, getting to a  
20 full e-Manifest system? Because I think if we get  
21 back to the basic of what Justin's raising, which is a  
22 very good point, is what's in it for me as a  
23 generator, if we can tackle sooner the issue of not  
24 having to retain a paper copy to confirm receipt by

1 Justin's -- you know, by the generators, in general,  
2 let's maybe discuss how we can do that quicker through  
3 the phase-in approach.

4 Whether that means regulatory change or  
5 not, I don't know. But I think that's a very  
6 important point that Justin raises, is that, again,  
7 I'm trying to go back to our One Year Rule goals. And  
8 one of them is paper reduction, and that's a big issue  
9 for the generators, is to reduce that paper retention  
10 of that returned copy of the manifest.

11 So if there's confirmation of -- if the  
12 paper goes in a hybrid manner to the TSDF --

13 **MR. RICHARD LASHIER:** Mm-hmm.

14 **MR. TOM BAKER:** -- they make electronic  
15 signatures and can certify it's electronic when they  
16 submit it to EPA, I think that pdf image, you know,  
17 maybe has some merits in making it publicly available,  
18 in a sense, where Justin doesn't need to get a copy  
19 back but can get a certification that it was posted.

20 That's why I bring it up.

21 **MR. SCOTT CHRISTIAN:** Yeah, yeah.

22 **MR. TOM BAKER:** I think it's an  
23 important part of the discussion.

24 **MR. SCOTT CHRISTIAN:** And thank you for

1 clarifying. This is Scott Christian again.

2 In the system, the generator and the  
3 transporter would get their electronic copy of what  
4 the TSDF submitted. They wouldn't get a pdf because  
5 TSDFs do not submit a pdf with that. The other paper  
6 processes would be pdf-based just because of how we  
7 did our paper analysis.

8 But the generator could log into the  
9 system and look at their site and see all the  
10 manifests that were received and sort and filter and ...

11 **MR. JUSTIN WILSON:** Yeah, I think -- or  
12 sorry, Scott.

13 **MR. SCOTT CHRISTIAN:** No, no.

14 **MR. JUSTIN WILSON:** What I understand  
15 Tom is asking is does the system take a pdf scanned  
16 image of this document right here. If it does and it  
17 -- we ran paper all the way through as the commenter  
18 suggested, then now in the -- there is an image of a  
19 paper copy with everybody's signatures on it. That  
20 could satisfy us.

21 But I think there's not an image  
22 uploaded in the e-Manifest system, is there?

23 **MR. SCOTT CHRISTIAN:** Oh, no, there is  
24 a -- and I discussed that on Tuesday. There is an

1 image upload. But how we design it -- and it can be  
2 easily done so you can have an electronic signature  
3 and an image. But right now, it's -- you can do an  
4 image and data, or you can do data and the signature.

5 Now, how we built our service, you can  
6 -- we can have the image data and the signature go in  
7 one payload.

8 **MR. JUSTIN WILSON:** Mm-hmm.

9 **MR. SCOTT CHRISTIAN:** That's possible.

10 It just -- I'm stating as a matter of fact --

11 **MR. JUSTIN WILSON:** Okay.

12 **MR. SCOTT CHRISTIAN:** -- is the way it  
13 is.

14 **MR. JUSTIN WILSON:** So if we take the  
15 commenters' suggestion of running paper through all  
16 users, even being signed in wet ink by the receiving  
17 facility, if that -- and that receiving facility can  
18 scan an image of that document, it's now -- that image  
19 had the generator's signature.

20 **MR. SCOTT CHRISTIAN:** Mm-hmm.

21 **MR. JUSTIN WILSON:** Right? That  
22 electronic document being uploaded means that the  
23 generator should not have to keep paper. That  
24 original paper left, you know, onsite, their generator

1 copy, they don't need it once that's uploaded because,  
2 in this scenario, if they -- if the TSDFs upload a  
3 document with everybody's signatures, that is the  
4 final manifest copy. There's no reason for paper  
5 record retention at a generator's site.

6 So in -- you said they can scan and  
7 upload that document with the data. What fee of the  
8 fee system would that be? You've got fully electric,  
9 which is least expensive. You have the XML data  
10 submissions, which is the next tier up in pricing.  
11 You have the -- I see it -- the image file from paper  
12 manifests.

13 So would that fall under the image file  
14 from paper manifest fee scale even if they upload the  
15 data?

16 **MR. SCOTT CHRISTIAN:** So one thing  
17 before -- I want to ask Rich a question.

18 And Rich, in the regs -- and you know  
19 them better than I do -- the manifest record retention  
20 for an electronic --

21 **DR. FRED JENKINS:** Scott, make sure to  
22 bring that mic to your mouth, please.

23 **MR. SCOTT CHRISTIAN:** Sorry.

24 **DR. FRED JENKINS:** Yeah, thank you.

1                   **MR. SCOTT CHRISTIAN:** So the manifest  
2 record retention rules if it's an electronic manifest  
3 satisfies the need for a generator to keep their copy  
4 onsite, correct?

5                   **MR. RICHARD LASHIER:** Yeah, if there's  
6 a way to tie that copy to the generator's account,  
7 then having that final copy in the system signed would  
8 absolve having to retain the initial generator copy.  
9 It'd keep it only so long as it's necessary to show  
10 that, you know, it arrived at the TSDF. And once  
11 that's been confirmed, then the initial generator copy  
12 can be discarded under the current regulations. And I  
13 can't see why it would be any different.

14                   If there was an actual final signed  
15 copy that can be attributed to that generator and  
16 accessed that way, we shouldn't make them keep the  
17 initial copy any longer.

18                   **MR. SCOTT CHRISTIAN:** And then --

19                   **MS. CYNTHIA WALCZAK:** Well, but that's  
20 --

21                   **MR. SCOTT CHRISTIAN:** -- to you -- oh.

22                   **MS. CYNTHIA WALCZAK:** -- according to  
23 EPA regulations. There's DOT regulations to consider.

24                   **MR. RICHARD LASHIER:** Yes. I mean, the



1 DOT regulations, you know, we have to have more  
2 discussions with DOT. But you know, our manifest is  
3 their DOT shipping paper. And whether -- we'd have to  
4 talk to them to see if they would be on board with us,  
5 you know, having that initial paper copy discarded at  
6 the shipper site when there -- when it could be  
7 accessed electronically.

8 **MR. SCOTT CHRISTIAN:** And then --

9 **MR. TOM BAKER:** Just to be clear, what  
10 Justin's concern was the return copy of the manifest,  
11 not the initial copy being --

12 **MR. RICHARD LASHIER:** Yeah.

13 **MR. TOM BAKER:** -- tossed. I mean,  
14 that's the primary concern. Am I correct?

15 **MR. JUSTIN WILSON:** State that again.

16 **MR. TOM BAKER:** Your primary concern  
17 was not having to get the returned copy from the TSDF  
18 and maintain that copy, not so much the original  
19 shipping paper.

20 **MR. JUSTIN WILSON:** The original was  
21 actually my concern. My point is I don't want to keep  
22 the generator copy and then have to go get the final -  
23 - you know, keep it from a record retention standpoint  
24 and then have to go get the final copy online and try

1 to prove I've done that.

2 But if the TSDF uploads -- if we follow  
3 the commenters' hybrid approach, which is run paper  
4 all the way through as we currently do today, then a  
5 TSDF uploads an image of that manifest in addition to  
6 the data. And now I can log in as a generator, and  
7 there's my image. And I can show that to an  
8 inspector.

9 **MR. SCOTT CHRISTIAN:** Yeah.

10 **MR. JUSTIN WILSON:** I have no reason to  
11 keep paper.

12 So I'm trying to either --

13 **MR. SCOTT CHRISTIAN:** Yeah.

14 **MR. JUSTIN WILSON:** -- stay with  
15 today's current system of mailing paper back, putting  
16 them all together. But ideally, what I want to do is  
17 no paper at all. But I don't want a hybrid of  
18 documents being --

19 **MR. SCOTT CHRISTIAN:** Yeah.

20 **MR. JUSTIN WILSON:** -- paper and  
21 electronic.

22 **MR. RICHARD LASHIER:** If I could answer  
23 the second part of your question, Justin, about what  
24 fee would be applicable.

1                   **MR. JUSTIN WILSON:** Yes.

2                   **MR. RICHARD LASHIER:** As long as we are  
3 working off the data file for feeding data into the  
4 system, it would be the XML fee you see there, not the  
5 image file --

6                   **MR. JUSTIN WILSON:** Okay.

7                   **MR. RICHARD LASHIER:** -- because we  
8 always require an image file to go with the XML file.  
9 But if we're not having to actually go in there and  
10 manually key in data off of an image, we're not going  
11 to charge the image file fee.

12                   **MR. JUSTIN WILSON:** That makes perfect  
13 sense to me. I just wanted to make sure --

14                   **MR. RICHARD LASHIER:** Okay.

15                   **MR. JUSTIN WILSON:** -- I understood  
16 that.

17                   **MR. RICHARD LASHIER:** And since the --  
18 in terms of the Hazmat rules, the Hazmat statute  
19 already provides -- has the provisions provided for  
20 the electronic storage of shipping papers. And their  
21 signature requirements are not nearly as rigorous as  
22 ours. I mean, they just require a typed name.

23                   I would think that we would have a  
24 fairly simple time talking to DOT about their being

1 satisfied with being able to access an image file of a  
2 manifest meeting the requirements for storing a  
3 shipping paper. We'll have to talk it over with them,  
4 but I don't think there was any necessary impediment  
5 to the fact that we're having an image file store as  
6 opposed to it being a piece of paper since they  
7 already have authority for storing electronic shipping  
8 papers.

9 **MR. JUSTIN WILSON:** I --

10 **MR. RICHARD LASHIER:** So we'll see.

11 **MR. JUSTIN WILSON:** I can probably get  
12 that answered right now on the side.

13 Justin Wilson. My question to the DOT  
14 would simply be do you allow electronic record  
15 retention of your shipping documents rather than  
16 paper. As long as I can access it electronically,  
17 does that meet your needs? That's --

18 **MR. RICHARD LASHIER:** That's right.

19 **MR. JUSTIN WILSON:** -- how simple of a  
20 question I'm going to ask.

21 **MR. RICHARD LASHIER:** And don't ask  
22 them about what's on the truck because they are very,  
23 very rigid about having to have a piece of paper on  
24 the truck while it's in transport.

1                   **MR. JUSTIN WILSON:** Yeah.

2                   **MR. RICHARD LASHIER:** They demand that.

3                   **MR. JUSTIN WILSON:** I understand that,  
4 yeah.

5                   **MR. RICHARD LASHIER:** After it's over,  
6 they don't really -- I don't believe they're as  
7 rigorous on the actual storage afterwards.

8                   **MR. JUSTIN WILSON:** Okay.

9                   **MR. TOM BAKER:** Okay. More discussion  
10 -- oh.

11                   **DR. FRED JENKINS:** Justin, if you get  
12 an answer to your question, if you get additional  
13 information, just make sure you add that to the record  
14 if you want to as soon as possible before we're done  
15 with the charge questions.

16                   I'm sorry. What is this?

17                   (Side conversation.)

18                   **MR. BARNES JOHNSON:** Yeah, that --  
19 that's -- I believe that this document's already been  
20 distributed.

21                   **DR. FRED JENKINS:** Yeah.

22                   **MR. BARNES JOHNSON:** This was here.

23                   (Side conversation.)

24                   **DR. FRED JENKINS:** The DOT letter.

1                   **MR. BARNES JOHNSON:** Was --

2                   **DR. FRED JENKINS:** Oh, you didn't get  
3 that?

4                   (Side conversation.)

5                   **DR. FRED JENKINS:** Okay.

6                   **MR. BARNES JOHNSON:** Okay. It hasn't  
7 been passed -- these haven't been passed around, I  
8 see. Okay.

9                   **DR. FRED JENKINS:** Okay.

10                  **MR. BARNES JOHNSON:** These have not  
11 been passed.

12                  **DR. FRED JENKINS:** Okay.

13                  **MR. BARNES JOHNSON:** The state stuff  
14 has got passed around, but the DOT information has  
15 not. But it's coming.

16                         Okay. So Thomas, would you like to --  
17 Tom, would you like to summarize the conversation on  
18 Charge 5A?

19                         **MR. TOM BAKER:** I will try and  
20 summarize it. But I think the next couple charges are  
21 going to have fuzzy boundaries to them, and they're  
22 going to overlap. So --

23                         **MR. BARNES JOHNSON:** Sure. Maybe --  
24 perhaps we should go through all of them, all the

1 question --

2 **MR. TOM BAKER:** Well, let's at least  
3 summarize the discussion to this point. But I guess  
4 what I'm saying is it -- it's probably going to go  
5 into other sub-questions.

6 But so far, we've discussed -- you  
7 know, the most basic response that I gave was just  
8 that -- to encourage widespread use of e-Manifest.  
9 It's got to be a workable burden reduction system,  
10 quite frankly. People have got to want to use it, so  
11 it's got to deliver a valuable product to them.

12 And then we discussed at length how we  
13 would be able to satisfy the generator community by  
14 eliminating some of the burden on retention of  
15 manifest copies and exploring ways to do that through  
16 a hybrid system.

17 Anybody else? Did I miss anything  
18 there?

19 **MR. BARNES JOHNSON:** Well, I think -- I  
20 guess one of the things that I would add, and this has  
21 come out repeatedly, particularly from Justin, which  
22 is there's a great deal of concern about the  
23 recordkeeping requirements and obligations of the  
24 generator. And what those obligations -- we have a

1 set of obligations under the existing set of  
2 regulations. And e-Manifest brings, you know, a new  
3 environment.

4 And so Justin's very concerned about  
5 what the expectations are regarding recordkeeping by  
6 the generator and whether that can be virtual or  
7 whether you -- I know Justin come -- you know, talked  
8 about having kind of the document, the image, quite a  
9 few times.

10 So that's an issue that I think we need  
11 to grapple with.

12 And the other thing I think that came  
13 out of that conversation is I think there continues to  
14 be considerable confusion between what we're calling  
15 an e-Manifest versus what we're calling other forms of  
16 electronic transmission, which we call paper  
17 transmission.

18 And so that's something I think we need  
19 to be -- one of the takeaways for us is we need to be  
20 very clear because we've talked about these sort of  
21 four different -- we presented the four different ways  
22 of -- that we've -- four different frameworks that we  
23 have. One of them is the e-Manifest, which is a  
24 virtual -- as Rob said, virtual with a CROMERR valid



1 signature to it.

2 But then there's their forms of "paper"  
3 transactions. You know, there's the mail in the mail.  
4 There's the pdf version. And then there's the XML  
5 string. So those are versions of paper that we  
6 envision. So those are all possibilities in the  
7 framework that we're thinking about.

8 So just being very clear about those  
9 and what those options are, I think, for me, it was  
10 one of the takeaways because we sort of talked around  
11 those different options there for a few minutes.

12 So can I ask EPA to move on to Question  
13 5B and present that to the Board?

14 Oh, yes, John.

15 **MR. JOHN RIDGWAY:** I'm sorry for coming  
16 in late on this. I mean, a clarifying question -- I  
17 think I heard this, but it's important.

18 Does EPA envision that a pdf copy of a  
19 paper manifest could be in the system design attached  
20 to a given facility as part of the record? Let's just  
21 imagine the receiving facility does put the  
22 information from the paper manifest or from a pdf copy  
23 of that paper manifest into the system so the system  
24 has the electronic equivalent of that information.

1           Would the system also be able to retain  
2 the pdf image as well that clearly shows the  
3 signatures?

4           **MR. SCOTT CHRISTIAN:** Scott Christian.  
5 As of the current design, yes, the -- if a site has a  
6 mixture of electronic and paper in their Receipt  
7 column, they will see whether it's a paper and then be  
8 able to drill down and look at the paper that was  
9 uploaded with the data if that -- or unless their  
10 processing center put in the -- put it in.

11           But if there's an image -- you know, if  
12 there's a mail and there's an electronic and they have  
13 both, they'll have both.

14           **MR. JOHN RIDGWAY:** Thank you.

15           **MR. BARNES JOHNSON:** And it's also  
16 worth probably mentioning, Scott, if we just receive a  
17 pdf version. Can you explain what happens then?

18           **MR. SCOTT CHRISTIAN:** Sure. If we just  
19 receive a pdf version, then -- oh, sorry.

20           If we just receive the pdf version,  
21 once we get our paper processing center set up, that  
22 pdf version would be sent to the paper processing  
23 center for proper in -- the data entry into the system  
24 and then, from there, sent back to us.

1                   **MR. BARNES JOHNSON:** Okay. All right.

2                   Are we ready to move on to Question 5B?

3                   MiMi, you want to present that to the  
4                   Board, please?

5                   **MS. MIMI GUERNICA:** Sure. "Can the  
6                   Board recommend features or requirements? Example --  
7                   a cap on its availability that should be included in  
8                   the hybrid approach that would mitigate the risk that  
9                   the hybrid might actually thwart the adoption and use  
10                  of electronic manifests."

11                  **MR. TOM BAKER:** Okay. I think this is  
12                  an interesting question, and I think the premise is  
13                  that the hybrid manifest is somehow in conflict with  
14                  e-Manifest and the long-term goals of the program.  
15                  And I don't fully agree with that.

16                  I think if there -- again, if we go to  
17                  a hybrid approach -- and I'll it a phased approach,  
18                  which I'll spell out here a little better to clear --  
19                  but if we go to a phased approach with the last phase  
20                  being 100 percent e-Manifest, purest sense, start --  
21                  you know, start to finish, if it has value, if it  
22                  simplifies the process, if it reduces burden, people  
23                  will use it.

24                  I don't think there should be a fear

1 that a phased approach will be in conflict with the  
2 overall goal of electronic manifesting. If it's so be  
3 it that the hybrid approach, the phased approach, gets  
4 to a point where we're satisfying 95 percent of the  
5 goals of the One Year Rule at a reduced cost to EPA to  
6 build the system, I don't think that's a bad thing.

7 I guess I don't want to make an  
8 assumption that phased approach is in conflict with  
9 the long-term solution of e-Manifesting.

10 I'll go back to the, again, this phased  
11 approach just to make sure everybody's clear on what  
12 industry has recommended, is that -- when I say  
13 industry, it's just the comments from the Trade  
14 Association and other -- some service companies.

15 But you know, the Phase I approach is  
16 to get paper manifests to the TSDFs to be submitted to  
17 EPA, electronically. And that -- we've been working  
18 with EPA's IT group for the last probably year on this  
19 project. And you know, it's a matter of just  
20 formatting the data, and that transfer of data can  
21 happen tomorrow, in a general sense.

22 I mean, we already transferred data  
23 electronically to Wisconsin, some to Massachusetts,  
24 for example, for transporter reports. The TSDFs are

1 well equipped to -- if -- to have a prescribed  
2 program. They can get the data to EPA quite simply.

3 I think this Phase I can be done sooner  
4 than later. I don't think we need to wait until  
5 there's a fee rule in place, necessarily. And I don't  
6 think there should be any fees associated with that  
7 transaction of the facilities submitting the data to  
8 EPA to start this database and put real information  
9 into this central manifest database.

10 Phase II would be a little bit robust  
11 where you would get generators to register into the  
12 system so they can then appreciate and get access to  
13 the data as well and, ideally, get confirmations and  
14 receipts pushed back to them as well as to the state  
15 agencies.

16 In the Phase II approach, you would  
17 eliminate the need to mail any manifest copies  
18 anywhere. And I can tell you that's a huge cost  
19 burden today on the regulated community as a whole.

20 You know, the paper manifests is the  
21 number one paper burden that we're struggling with.  
22 It's not the manifest itself being in a paper form.  
23 It's the mailing of the copies between the parties.

24 And this Phase II where we're getting

1 communications sent back to generators, if we can  
2 accomplish what Justin has raised as the generator  
3 concerned of not having to keep a paper copy of the  
4 manifest in retention, that ticks off another one of  
5 our requirements and one of our goals of the One Year  
6 Rule.

7 And then Phase III being a full e-  
8 Manifest implementation where it's a robust system of  
9 chain-of-custody transfers between generators,  
10 transporters, TSDFs. We build that. If that has  
11 value, that'll be used, and it'll come naturally. But  
12 you know, I think looking at it as a phased approach  
13 and maybe not using the word "hybrid" is a better way  
14 to look at it.

15 We haven't talked about fees in  
16 relationship to a phased approach, but the fees have  
17 to be established reasonable that reflect the cost to  
18 EPA to implement a phased approach.

19 You know, again, to collect data into a  
20 database from the TSDFs is a very low-cost -- in my  
21 opinion, a very low-cost transaction. Registering  
22 generators and getting them in the user community and  
23 going through RCRAInfo and cleaning up the generator  
24 data set is a huge issue, and we haven't really talked

1 that much about that in this conference so far. But  
2 you know, that's not going to happen in a month or  
3 two. It's going to happen in the course of probably -  
4 - in my opinion, it could take a year. It could take  
5 six months to a year to clean up that database  
6 efficiently so we have a good idea of who's registered  
7 to make shipments of hazardous waste.

8 I think looking at a phased approach  
9 and maybe establishing some deadlines to those -- that  
10 phased approach would be helpful, with the ultimate  
11 goal being e-Manifesting. But again, I don't think  
12 there's a conflict in place with a hybrid -- I'll call  
13 it a phased approach with the ultimate goal of e-  
14 Manifesting.

15 John?

16 **MR. JOHN RIDGWAY:** Yeah, a question  
17 just to be sure I heard -- and/or maybe some  
18 clarification from you. Do you think that the  
19 receiving facilities will see the cost of uploading  
20 the data manually whether it's from paper or pdf to be  
21 relatively insignificant compared to the cost of  
22 dealing with mailing all the paperwork around?

23 **MR. TOM BAKER:** Yeah, it's my opinion  
24 that data transfer -- the EPA central database is a

1 benefit over mailing copies between interested  
2 parties. If the endgame is to reduce and eliminate  
3 the paper mailing copies, transfer of data is  
4 something that we would, you know, look at closely.

5 **MR. JOHN RIDGWAY:** So in follow up, to  
6 me, that provides an additional driver or incentive  
7 for the receiving facilities to work with the  
8 generators to help that happen sooner than later. And  
9 fee differential would -- I would assume reflect that  
10 savings. That would be negotiated between the  
11 receiving the facility and the generator.

12 **MR. TOM BAKER:** Yeah. I mean, with  
13 saying that, I mean, the fees, it's critical. Would  
14 it be reasonable or -- you know, it's -- it can't be.  
15 \$20 a manifest for -- to transfer data electronically,  
16 that doesn't make any sense. So ...

17 **MR. MICHAEL HURLEY:** It's Mike Hurley.  
18 I have a question for you, Tom, on --  
19 and if it's proprietary, you just don't have to answer  
20 it. But are you already tracking your in-house system  
21 pretty much the contents of the entire manifest so  
22 when you receive it the -- at your facility a fully  
23 executed paper manifest and you sign off and it's  
24 done, are you really only having to compare that paper



1 manifest with what's already in your system?

2 And probably the only thing you'd be  
3 missing, I'm guessing, might be signatories, like, the  
4 signatures of the different steps because you'd have  
5 all the transporter steps. You'd have everything  
6 else. So it's really just a data review and then an  
7 upload. Is that close?

8 **MR. TOM BAKER:** Yeah. As I can speak  
9 just regarding our company's system and not all --  
10 certainly all TSDFs, but it's a correct statement. I  
11 mean, we're administering (ph) paper for wet  
12 signatures and then comparing paper data that, you  
13 know, most manifests we've created ourselves through  
14 our own system. So it's matching what's in our  
15 electronic database today.

16 **MR. BARNES JOHNSON:** Rob?

17 **MR. ROBERT KLOPP:** I have nothing to  
18 add.

19 **MR. BARNES JOHNSON:** Okay. Cindy?

20 **MS. CYNTHIA WALCZAK:** As it concerns  
21 the question, I think it -- there is no good answer to  
22 that, and I'll tell you why. I think because the  
23 hybrid system satisfies EPA's concerns. You get a  
24 central repository for all the information. The --

1 you get your public access. You get increased  
2 enforcement capabilities, consolidated reporting  
3 requirements.

4 It satisfies all the goals you  
5 enumerated with your -- with the exception of the  
6 reduction of paperwork and the paper burden on the  
7 regulated community, mind you, not on EPA. And EPA,  
8 it seems to me, is in the best position to resolve  
9 this CROMERR issue with regard to signatures.

10 The hybrid takes the pressure off EPA  
11 to resolve the signatory issues because it satisfies  
12 the goals that are most important to EPA but actually  
13 leaves the regulated community out in the cold because  
14 the paperwork burden didn't decrease.

15 I think the hybrid version does, in  
16 fact, thwart the adoption of fully electronic manifest  
17 system. And I don't know who that can influence  
18 CROMERR and how that -- how those requirements can  
19 interface with this, who's going to champion that  
20 change if not EPA. And why would EPA do it when four  
21 other -- when all of their goals have been satisfied?

22 **MR. RICHARD LASHIER:** I'll just -- I  
23 don't -- I have just one clarifying point. I mean, I  
24 appreciate everything you said there and the

1 recognition that the hybrid presents at least some  
2 initial advantages to the Agency.

3 But I -- and also in dealing with Tom's  
4 opening the idea that the question seems to suppose  
5 there is some conflict between the phase approach and  
6 program goals. I mean, I don't think the Agency is as  
7 happy, necessarily, with the idea that we're going to  
8 leave a lot of paperwork out there in the regulated  
9 community because it has long been an objective of e-  
10 Manifest and the longer haul to move towards a  
11 paperless manifest.

12 And I'll share with you a story about -  
13 - we had a congressional hearing in the summer of 2012  
14 with Congressman Shimkus who was the subcommittee  
15 chair Energy and Commerce Committee. And when they  
16 were debating the adoption of the e-Manifest Act in  
17 2012, he was pontificating at length about the fact  
18 that he could communicate with his staff on his iPad,  
19 yet here is EPA still requiring folks to use a six-  
20 paper form -- six-copy form. So I know amongst some  
21 on the Hill there still is this expectation that e-  
22 Manifest will be a vehicle for some paperwork  
23 reduction.

24 So I think -- so our actual question

1 there on the charge question wasn't so much that we're  
2 in conflict or concerned about the phase approach, but  
3 I guess the concern it might stall at Phase I. So  
4 that's what I wanted to offer in discussion.

5 And we're not happy to leave anybody  
6 dealing with paper, the long haul things. But it does  
7 provide some interim advantages. But we're thinking  
8 how do we get past Phase I.

9 **MS. CYNTHIA WALCZAK:** But all those  
10 advantages -- none of those advantages confer to the  
11 generator -- none of them. It is not to the  
12 generator's advantage to have consolidated -- a  
13 centralized database.

14 **MR. RICHARD LASHIER:** Mm-hmm.

15 **MS. CYNTHIA WALCZAK:** We won't use it.  
16 Improved enforcement, public access -- I mean, maybe  
17 holistically those are great goals. But frankly,  
18 those are not what the regulated community was hoping  
19 to get out of this.

20 **MR. TOM BAKER:** Cindy, can you  
21 elaborate on the paper burden issue? I mean, it's --  
22 you know, specifically, what is the paper burden?

23 We talked about mailing manifest  
24 copies, retention of manifests, if that could be

1 eliminated as part of the paper burden. But what else  
2 is there?

3 Could you just elaborate on that?

4 **MS. CYNTHIA WALCZAK:** Well, that's it.  
5 I mean, I think you're well familiar with it. But my  
6 point is that it doesn't change under the hybrid  
7 system.

8 You know, you have the six-page carbon  
9 copy form that you either develop ahead of time or is  
10 delivered to you by the TSDF. I understand where  
11 you're coming from because you have a printer on the  
12 truck. Not everybody has a printer on the truck.

13 Then they have to modify the six-  
14 carbon-copy form. And then if there's a mistake,  
15 everybody has to get together, and every exchange  
16 their copies of the form. And then you have to track  
17 the form.

18 There's no hidden paperwork burden. It  
19 just doesn't change under the hybrid system.

20 **MR. TOM BAKER:** Yeah. And I just asked  
21 the question because, paperwork burden, there's parts  
22 of it. And I think some of it does eliminate if it's  
23 -- if the -- if this phased-in approach can operate in  
24 a manner that it can eliminate a couple things, it can

1 eliminate the need to retain a copy of the return copy  
2 from the TSDF. It can eliminate the need for the  
3 generator to mail a copy to the state if that's what  
4 they're doing today. And it can --

5 **MS. CYNTHIA WALCZAK:** But it can't --  
6 in reality, it will not eliminate the -- it sounds  
7 like it eliminates the need for you to keep the TSDF  
8 signed copy --

9 **MR. TOM BAKER:** Yeah.

10 **MS. CYNTHIA WALCZAK:** -- in your files.  
11 But somehow, you have to demonstrate that you have  
12 ensured that the TSDF received it. The easiest way to  
13 do that is to print a copy of the signed form. I  
14 mean, there is no easier way to do that. So you --  
15 it's the same.

16 **MR. TOM BAKER:** Well, I just raise it  
17 because, I mean, it's such -- you know, I don't think  
18 anybody knows exactly what this phased approach is  
19 going to be at the end of the day today at least. If  
20 we have things we want to accomplish through a phased  
21 approach -- and it's -- burden reduction is one of  
22 them for generators -- let's try to specify what that  
23 is so we can include that in a phased approach.

24 That's all I'm getting at, just so we

1 can identify more specifically what is the paper  
2 burden so we can -- if possible, can it be addressed  
3 through a phased approach.

4 **MR. ROBERT KLOPP:** I have a question.  
5 For those of you that are going to be responsible for  
6 directly paying fees to the EPA -- we're talking about  
7 \$1 million a year -- is there any way that you can see  
8 the benefits from the hybrid approach being worth \$1  
9 million to your company? Is there any way you can see  
10 it being worth \$1 million? If it's not, then the  
11 hybrid's not valuable, by the definition of value,  
12 right?

13 **MR. JUSTIN WILSON:** It depends on which  
14 of these alternatives we actually take. If -- what  
15 the EPA proposed hybrid model, no. Given the  
16 generators' exemption to continue to use paper and not  
17 the other things, no.

18 If the commenters' hybrid approach,  
19 which the paper continues all the way through and then  
20 they take it a step further, being that TSDFs not only  
21 upload data, but also upload an image of the manifest  
22 with all signatures on one image, that is a benefit to  
23 the generator.

24 **MR. ROBERT KLOPP:** A million bucks?

1                   **MR. JUSTIN WILSON:** I'm sorry?

2                   **MR. ROBERT KLOPP:** \$1 million?

3                   **MR. JUSTIN WILSON:** Well, I'm a little  
4 different in that it's a million and a half, but  
5 that's because I have 5,000 facilities. It's soft  
6 cost savings. It's hard to calculate because we don't  
7 currently typically get fines for the first time an  
8 inspector comes onsite and can't find, you know, like,  
9 a final copy of a manifest. They work with us well  
10 enough that they'll let us come up with it and provide  
11 it and avoid a fine.

12                               But with that said, the store is  
13 occupied with that outside of their normal business.  
14 Multiple people at corporate are. The inspector's  
15 tied up and can't finish their report and move on, you  
16 know, to their next sites.

17                               I suspect the soft cost savings could  
18 be worth it, but that's very hard for me to -- we  
19 could quantify that. I just have to look at the  
20 number of hours of our group within corporate spends  
21 on dealing with that with inspectors. And it's quite  
22 a few hours. But I don't have the answer right now.  
23 I'd have to put the pen to it.

24                   **MS. MIMI GUERNICA:** I just have a



1 clarifying question. One of the benefits of the  
2 system that we anticipate is that inspectors would be  
3 able to use it before they go to a facility in order  
4 to determine the compliance status of that facility.  
5 And so I guess I'm more looking at the states.

6 But you know, if the system would  
7 enable inspectors to do that, then mightn't that ease  
8 the burden on the generators to come up with the  
9 documents proving that they're in compliance?

10 **MR. JOHN RIDGWAY:** John Ridgway here,  
11 to that question.

12 I don't think that alone is what the  
13 inspectors are going to pay attention to. And Cindy  
14 alluded to this earlier. The inspectors are going to  
15 be looking at a whole number of things.

16 It's my understanding in our state a  
17 good inspection will involve a pre-inspection effort  
18 to look at records around what the facility has been  
19 observed practicing in the past, whether they're  
20 correcting issues that may have been drawn up. But  
21 they're not likely going to be going into an  
22 application like this to see if all the manifests are  
23 signed off and appropriately filled out because  
24 they're not really going to know all the details.

1           So again, like what Cindy was saying, I  
2 think they're going to -- they're going to come in and  
3 say show me that you're tracking your manifests.  
4 That's the issue. It's not what's on the manifest.  
5 Show me that you're paying attention that it got --  
6 the shipment got to where it needs to go.

7           And that's going to be demonstrated by  
8 the facility logging on and showing, yep, here they  
9 all are. I understand how to use the system. It's  
10 working.

11           And then they're going to go on to  
12 looking at how the barrels are stored, labeled, the  
13 lids are on, secondary containment's good -- all that  
14 sort of stuff is part of the inspection for  
15 compliance.

16           And frankly, those are of greater  
17 concern than a paper violation, if observed. I think  
18 if there was some sort of a records discrepancy like  
19 we've heard before, that would be brought to the  
20 attention of the facility, and they would say, gosh,  
21 you've got to do a little better on that. I'll come  
22 back and give you a chance to get that in order.

23           But I don't think the inspector is  
24 going to be logging on to the system facility by

1 facility and looking at all the manifests other than  
2 to see maybe that there's a bunch there.

3           Nonetheless, it would be a helpful  
4 tool. I think states -- and when I've discussed this  
5 with counterparts, we would be more interested in  
6 using such a system to affirm that shipments that left  
7 one place were fully received at the destination  
8 facility if there was a question of discrepancy at the  
9 receiving facility. That's more -- that's where the  
10 high risk is. Those are much more regulated  
11 facilities than the generator.

12           I don't think it's going to make  
13 inspections that much easier, though it'll be a handy  
14 tool. I would hope that, however, it would help the  
15 generator. And this may be a full -- a question for  
16 Cindy, is if you don't have to retain the paper  
17 because there's a pdf of that manifest, I would think  
18 that would be an advantage and perhaps a reduction in  
19 burden.

20           **MS. CYNTHIA WALCZAK:** Right. I think  
21 what Justin was referring to, what John just talked  
22 about, is if EPA could become the file cabinet -- the  
23 official file cabinet. That would confer a benefit, I  
24 do believe.

1                   **MR. JOHN RIDGWAY:** Yeah.

2                   **MR. ROBERT KLOPP:** I'm going to just --  
3 I want to just -- part of why I brought up the money  
4 thing here is because I actually was trying to kind of  
5 turn the conversation this way because I think that  
6 the point is that if we can focus the features we  
7 build into the system so that all of you feel like you  
8 get \$2 million worth of return for the \$1 million you  
9 spent, then the system is successful.

10                   And so it's these kinds of  
11 conversations where you're now saying, gosh, if you  
12 became the storage system of record for all of this  
13 stuff, that would be worth a bunch of money to me.  
14 Those are the kinds of things I was hoping that the  
15 conversation would turn to because that's -- that  
16 changes the way we think about this stuff and maybe  
17 helps us get this where it needs to go and get to  
18 answer the question.

19                   **MR. TOM BAKER:** Scott?

20                   **MR. SCOTT CHRISTIAN:** And yeah, I just  
21 want to -- it's Scott Christian again. I want to  
22 clarify a few things.

23                   One, the system, you know, for every --  
24 like I said earlier, every facility will have their

1 ability to see their manifests -- the electronic  
2 filing cabinet, every site, you can go down and look.

3 But in addition to that, we also have  
4 the -- it's service-based. So when your TSDf submits  
5 something, they'll pull down their manifest. And they  
6 can put it through their customer portals as well. So  
7 if you don't want to go to EPA's system -- you can if  
8 you want to because that's where the official CROMERR  
9 copy of record will exist. But the verification of  
10 that can exist because we're services-based in a  
11 system you're more comfortable with.

12 But yeah, I just want to make it clear  
13 because maybe I'm not that the -- a site can log on,  
14 get an account, and see all the manifests that are for  
15 that site.

16 **MR. ROBERT KLOPP:** So we are intending  
17 to be a file cabinet.

18 **MR. SCOTT CHRISTIAN:** Yeah, that's a --  
19 it -- a file cabinet is a way of putting it, yeah.  
20 Yeah.

21 **MR. MICHAEL HURLEY:** It's Mike Hurley.  
22 I just want to throw out our experience with this.

23 We have a system that currently does  
24 all this in Massachusetts. Tom's used it. You upload

1 your transporter information every month. And we also  
2 collect the manifests, and we have them scanned.

3 You can do a bulk query -- you know, do  
4 an ad hoc query, pulling everything by a certain  
5 facility. Prior to inspection, you'd run up the pre-  
6 inspection report.

7 But then you'd also do a query of the  
8 manifest data. You look through it for anything that  
9 seemed irregular. You found something interesting,  
10 you would then call up the paper -- you know, the  
11 scanned image. You could have those in hand. You  
12 could go to the facility with things circled saying I  
13 -- these demand attention.

14 You know, and it is quick and easy.  
15 And actually, ours, we built it on the cheap. It was  
16 really, really short money. Tom can probably say that  
17 it looks like we built it on really short money.

18 It's been -- it's super cheap, very  
19 simple, and it's been durable. We've gotten over 10  
20 years out of it now, and we use it all the time.

21 **MR. TOM BAKER:** I'll just comment on  
22 the database real quick. It's Tom Baker.

23 The biggest difference there is there  
24 is no benefit for me to use that database. It's a

1 regulatory requirement that I submit data to the state  
2 to determine fees as a transporter.

3 It doesn't eliminate my biannual  
4 report. It doesn't eliminate mailing copies to the  
5 Agency. You know, that's where the difference lies,  
6 just to point it out. You know, taking to the next  
7 level is taking a database and making it -- as Cynthia  
8 and Justin alluded to, it has to have benefit to the  
9 user group.

10 **MR. JOHN RIDGWAY:** John Ridgway here.  
11 Maybe another consideration is in terms of an  
12 incentive to the generators. And I don't know if this  
13 -- EPA mentioned earlier that their legal counsel is  
14 really pushing the need for CROMERR to be applicable.

15 But here's where I would push back a  
16 little bit. If the generator doesn't have to get a  
17 CROMERR account, maintain passwords, double  
18 verification when they're only going to use it maybe a  
19 few times a year. For the bigger ones, maybe it makes  
20 sense.

21 But just for the sake of incentivizing,  
22 don't require CROMERR of the generator. Let that  
23 requirement stay with the TSD. That might be an  
24 incentive. And legally, I don't know if that would be

1 allowable or not. But right now it's not required if  
2 they're submitting on paper.

3 CROMERR wasn't really designed for this  
4 kind of use, though I understand why legal folks for  
5 forensic reasons might think that would be better.  
6 But there's other ways, I think, to deal with  
7 enforcement concerns that go beyond CROMERR existing  
8 or not.

9 In summary, again, if CROMERR could be  
10 clearly waived from the generators and only applicable  
11 to the receiving facility, which is ultimately where  
12 it's going and the risk has been transferred, maybe  
13 that could help.

14 **MR. MICHAEL HURLEY:** And this is Mike  
15 Hurley.

16 And I agree with that completely  
17 because it -- CROMERR seems to be -- and it's  
18 hamstringing this whole thing. And it's almost as if  
19 someone should do an analysis and say this is the  
20 added cost burden to keep CROMERR over every single  
21 piece of this and then bring that up and say we could  
22 cut this budget for those projects by about 85 percent  
23 if we can throw this out. Would that be okay?

24 I mean, the date is public and



1 available. People can look at it. If you have an  
2 issue with your data, you just then address that. You  
3 put it out there for the actors involved in it to  
4 address.

5           You know, sort of the -- perhaps the  
6 CROMERR piece on it -- and maybe I'm sitting too close  
7 to Robert, but I'm coming up with these wild ideas.  
8 But we've just got to get out of this box. This is an  
9 expensive box to be sitting in, and it's not really  
10 bringing any benefit to it. It's making the benefits  
11 -- is it \$1 million to have this level of security for  
12 something that's a very public process? Everybody can  
13 see what's been collected. If you don't like it, you  
14 can respond to it. You know, you can say that's not  
15 true. I didn't actually sign that. There should be a  
16 remedy course for that.

17           Perhaps the CROMERR piece was more  
18 focused on the paper process, that when it was done,  
19 it went into a drawer and no one ever saw it again.  
20 Maybe you needed more sort of scrutiny on the -- on  
21 those specific pieces because no one ever got to see  
22 it again.

23           But this is day-lighted. I mean, it's  
24 out there -- or it would be. So maybe this is

1 unnecessary, and I think that should be looked into.

2 Thanks.

3 **MR. JOHN RIDGWAY:** John Ridgway here.

4 One more reality is that for annual reporting in our  
5 state, a generator tells us how much they created over  
6 the year. They submit that into our electronic  
7 system, and they're going to have to use CROMERR to do  
8 that because we then have to turn that data around and  
9 send it on up to EPA through the node.

10 The reality is a lot of these  
11 generators already are going to have a CROMERR  
12 account. I don't mean to conflict with what I just  
13 said. But it may not be that big of a deal for the  
14 generators that are used to it and creating records on  
15 a frequent basis.

16 You know, a modification on what I just  
17 said earlier is that maybe businesses that don't  
18 submit more than 10 reports a year could be waived, or  
19 things of that nature where the burden goes up because  
20 they forget their password, they have to resubmit it,  
21 they maybe even don't have an environmental staff, or  
22 something of that nature. But I think there might be  
23 something there to work with.

24 **MR. SCOTT CHRISTIAN:** May I ask a

1 clarifying question to John's?

2 **MR. BARNES JOHNSON:** Yeah, go ahead,  
3 Scott.

4 **MR. SCOTT CHRISTIAN:** So look, John.  
5 The people who are submitting that are not the loading  
6 dock person, correct? It's the company -- let's say  
7 EHS, the Justins of the world.

8 **MR. JOHN RIDGWAY:** It's not the loading  
9 dock person. It's whoever is in charge of tracking  
10 the hazardous waste that's generated at the facility.  
11 It's not the person who is necessarily filling out the  
12 manifest.

13 **MR. BARNES JOHNSON:** Okay. Tom, do you  
14 want to -- should we move on to 5C? Or are there any  
15 last words on the -- this question?

16 So MiMi, can you present 5C to the  
17 Board, please?

18 **MS. MIMI GUERNICA:** "Commenters raise  
19 concerns that waste tracking disconnects and data  
20 integrity issues may occur since the hybrid option  
21 severs the manifest paper copy from the electronic  
22 version. Can the Board recommend measures to EPA that  
23 will address these concerns?"

24 **MR. BARNES JOHNSON:** Tom, take it away,

1 please.

2 **MR. TOM BAKER:** Yeah, I guess before I  
3 even answer the question, I'm not -- it would be good  
4 to get some clarification on, you know, what are the  
5 specifics of these data severing concerns. I'm not  
6 familiar with them from the commenters.

7 **MR. RICHARD LASHIER:** This is Rich  
8 LaShier.

9 Just to help clarify that, Tom, this  
10 charge question was built more around the proposed  
11 approach where a response to the proposed rule that  
12 had the -- just the generator copy alone being  
13 retained for the generator site signed by the  
14 generator and the transporter and the rest occurring  
15 electronically.

16 The concern was that a generator copy  
17 kind of remains fixed as that paper copy, and other  
18 things could be happening to the electronic file as it  
19 moves through the other handlers and on to the  
20 receiving facility. And then corrections are made  
21 after that.

22 If that generator may have a version  
23 that's outdated -- and then how are we then going to  
24 be -- sort of account for the fluid nature or the

1 manifest if the generator and the generator alone has  
2 this fixed paper copy? That was part of it as well.

3 Now, I think it's less of an issue with  
4 the industry phase approach because you're using paper  
5 throughout all of the receiving facilities (ph). So  
6 you don't have the disconnect occurring on route.  
7 Then the issue is that maybe there's a correction that  
8 occurs after receipt, and that has to be conveyed.

9 But I think it's more of an issue with  
10 the proposed approach where there's a concern about  
11 there being this fixed paper copy and other things are  
12 happening downstream that may not be affected in that  
13 copy cut by the generator.

14 **MR. TOM BAKER:** Okay. That  
15 clarification helps. It's a challenging issue to  
16 address.

17 It's an electronic manifest transaction  
18 that goes paper for part of the transaction. Then it  
19 gets edited as a paper document. And then how do we  
20 make that electronic again?

21 I presume that -- just thinking this --  
22 about this, it's probably going to come back to the  
23 TSDf to take their paper edits and make them  
24 electronic. And that's what we do today. I mean, for

1 a paper coming into the facility where there might be  
2 track -- corrections made at the point of shipment or  
3 by transporter or by the receiving facility, at the  
4 end of the day, when it's signed and certified, it's  
5 memorialized as electronic data. And that's what's  
6 submitted.

7 You know, in this limited situation you  
8 described, I would say that it'd have to be the TSDf  
9 have to take that activity to take paper edits and put  
10 them into the electronic format for submittal to the  
11 Agency.

12 Other comments?

13 **MR. JOHN RIDGWAY:** We addressed this, I  
14 think, on the first day where it was recognized, when  
15 there's a discrepancy, that really should be resolved  
16 between the generator and the receiving facility. And  
17 those discrepancies happen, and that process goes on  
18 currently.

19 To me, I would think that that's  
20 already been addressed in that I don't think it will  
21 get any worse than it is right now. Perhaps it'll get  
22 a little better for ability to get quicker access. I  
23 think this is where the generators are need -- you  
24 know, the culture's going to need to be encouraged to

1 go into the system whether it's the receiving facility  
2 system or the proposed e-Manifest system to be sure  
3 that there are not discrepancies. Now, that would be  
4 something an inspector would look at.

5 It's a concern now. It will continue  
6 to be a concern as the shipments go through various  
7 handlers.

8 But I don't see that as something that  
9 this proposed system would make worse. The burden of  
10 double-checking and making sure things look right is  
11 there now, and it will continue. I'm not sure that it  
12 will get any worse. I would hope, in fact, it would  
13 be easier to reconcile those differences by building  
14 flags into the system that look for discrepancies, or  
15 things of that nature. And everybody has an interest  
16 in that being correct and accurate.

17 **MR. MICHAEL HURLEY:** I'm sorry.

18 **MR. BARNES JOHNSON:** Yeah, absolutely,  
19 Mike. Go ahead.

20 **MR. MICHAEL HURLEY:** It's Mike Hurley.

21 I would offer, too, that, you know,  
22 with the -- as you were saying, with the phased  
23 approach to this, it would become easier and easier  
24 over time to amend the discrepancies because,

1 obviously, you've shipped it. You can go into your  
2 account. You can see your manifest, and you can  
3 wonder how that 3 became an 8.

4 I mean, you can -- you could address  
5 that immediately. You wouldn't have to wait for the  
6 lag of mail to come to you or anything like that. It  
7 would be much faster and easier.

8 **MR. ROBERT KLOPP:** So we did talk a  
9 little bit on the first day -- this is Rob -- about  
10 the fact that there are some very powerful new  
11 techniques that might make it possible to read paper  
12 and turn it into electronic in real time.

13 And so one of the recommendations I  
14 would make is that we -- that the EPA take a serious  
15 look at those technologies and see if there's some way  
16 that we can't actually make it irrelevant whether or  
17 not somebody writes it on a piece of paper.

18 I mean, in my mind's eye, I could  
19 imagine somebody with a clipboard and an iPhone app.  
20 They take a picture of a piece of paper, and that  
21 instantly translates it into an electronic document  
22 and, in real time, recognizes a discrepancy between  
23 what was just registered and what was previously  
24 registered. And maybe these things even get worked



1 out right there.

2 But you know, I think that within the  
3 hybrid approach that it's going to be difficult to  
4 find the value proposition to make this whole thing  
5 get kick-started unless we can find some way to let  
6 paper participate in the process in a more meaningful  
7 way than the way it's being talked about now. So ...

8 **MR. JOHN RIDGWAY:** Okay. Thank you.

9 More input? Cynthia?

10 **MS. CYNTHIA WALCZAK:** Perhaps I  
11 misunderstood the question, but I'm going to assume I  
12 didn't and say that if we do what Justin suggested,  
13 which is allow an image file to be attached to the  
14 file, the image file being the paper, then you're not  
15 really severing the two. You still have it to -- that  
16 you can rely upon to -- when confirmation or questions  
17 arise. So there is not severing if you keep the pdf  
18 attached to the file, the electronic copy.

19 **MR. RICHARD LASHIER:** I get the point.  
20 Thank you.

21 I think another aspect of this that was  
22 suggested as well by a comment you made a little while  
23 ago about the easiest way for the generator to prove  
24 compliance is to have the two copies together, the

1 paper copies. Now we've had more discussion. I think  
2 we've assuaged some of the concern.

3 But I think some of the comments that  
4 this charge question was trying to capture, there was  
5 a concern raised and comments about so-called offline  
6 generator. You supply a piece of paper that they'd be  
7 getting. They're offline. How do we get them back  
8 online to look at that pdf? That's, I guess, the  
9 concern, that there might too much comfort with being  
10 fixated on the paper.

11 Are they going to actually go into the  
12 system, check to see if the pdf file show that there  
13 was receipt that the TSDf be able to demonstrate  
14 compliance that way? No. I think that was the  
15 concern raised by the comment as well -- the offline  
16 generator, how to keep them interested.

17 **MS. CYNTHIA WALCZAK:** I understand. I  
18 think that's a likely scenario not among your more  
19 sophisticated generators, but among your less.

20 **MR. RICHARD LASHIER:** Yeah.

21 **MS. CYNTHIA WALCZAK:** I think that  
22 certainly is, in fact, the case because it's not their  
23 main business line --

24 **MR. RICHARD LASHIER:** Yeah.

1                   **MS. CYNTHIA WALCZAK:** -- you know. So  
2 I'm afraid I have no helpful comments.

3                   **MR. JOHN RIDGWAY:** Justin?

4                   **MR. JUSTIN WILSON:** If anybody -- this  
5 is Justin. If anybody else has anything to add, I'm  
6 trying to think a little more.

7                   **MR. JOHN RIDGWAY:** Okay. Fair enough.

8                   **MS. CYNTHIA WALCZAK:** Well, I'll take  
9 the opportunity to say there was one thing I wanted to  
10 bring up earlier, and it just never seemed to fit  
11 anywhere.

12                               And that is when we talk about the  
13 hybrid and we talk about how we're going to keep the  
14 paper for the generator and the transporter and then  
15 the TSDf signs it and then it goes, I, frankly, think  
16 one of the things that might make that easier is if I  
17 could sit down at my computer and -- or my laptop and  
18 print it -- print off a bill of lading or a manifest  
19 or something for the shipment without the six part.

20                               I know it sounds ridiculous. But the  
21 six-part copies require special printers and special  
22 ink. And we've got one for 200 people in my company,  
23 and they might have one per truck. Not everybody  
24 does.

1                   If we could then -- I understand the  
2 transporter must have a hard copy. But I don't. I  
3 could take a pic. Couldn't I not take a picture of  
4 what I gave the transporter? And couldn't the  
5 transporter or the receiving facility take a picture?

6                   I mean, why do we need to keep the six-  
7 part form that Keller (ph) provides, or whatever?  
8 Couldn't we do it by handheld scanners or by taking a  
9 picture rather than the six-part form?

10                  **MR. TOM BAKER:** Yeah, I think -- Tome  
11 Baker -- I think it's a great suggestion. And I --  
12 you know, those copies only exist so they can be  
13 mailed to people.

14                  **MR. RICHARD LASHIER:** Yeah.

15                  **MR. TOM BAKER:** I mean, that's the only  
16 reason they exist, is so they can be put in the mail.  
17 If we can eliminate that mailing, then we need to  
18 address the real issue, is get rid of the six-part  
19 form. I think that's a natural progression of this  
20 phased approach.

21                  **MR. RICHARD LASHIER:** Yeah. Of course,  
22 EPA's hands are sort of tied there because the statute  
23 provides people still have the option using the paper  
24 manifest. They'll be -- need to supply some number of

1 those for those folks who choose to, you know,  
2 continue in the paper mode.

3 But it is novel to suggest the idea of  
4 taking away the six-copy form, forcing my folks to be  
5 creative in terms of getting in line with this type of  
6 procedure.

7 **MS. CYNTHIA WALCZAK:** But I think  
8 there's a difference. The way I understand the hybrid  
9 approach -- and I hope I'm wrong -- is that at the  
10 front end, one must choose the six-piece form. And  
11 the reason I say it's been implied is because if  
12 there's another vision where I can sit down at my  
13 computer and generate one, well, there becomes the  
14 issue of unique identifiers. And you didn't talk at  
15 all about how that would be addressed.

16 **MR. RICHARD LASHIER:** Yeah.

17 **MS. CYNTHIA WALCZAK:** So I'm thinking  
18 that's not in your paradigm.

19 **MR. RICHARD LASHIER:** No. Did you want  
20 to say --

21 **MR. BARNES JOHNSON:** Would you like to  
22 ask EPA a question to clarify how -- what our thinking  
23 is on the unique identifiers?

24 **MR. SCOTT CHRISTIAN:** Yeah. The --

1 every manifest that's created in the system gets an  
2 electronic manifest number where we give it a  
3 manifest, but then it's ELC in the test mode. And  
4 what it'll be when we go prod (ph) might not be ELC.  
5 But so that electronic manifest will have a unique  
6 manifest number.

7 **MS. CYNTHIA WALCZAK:** But in the hybrid  
8 approach, that -- the record's created at the end of  
9 the process, not the beginning.

10 **MR. SCOTT CHRISTIAN:** It --

11 **MS. CYNTHIA WALCZAK:** And we need  
12 something in the beginning, right? No?

13 **MR. RICHARD LASHIER:** In the beginning,  
14 we assume now you'll still be using the registered  
15 printers forms with those unique tracking numbers on  
16 them until the status of the market changes enough  
17 that there's some need to change the numbers on the  
18 copies on the form. And --

19 **MS. CYNTHIA WALCZAK:** Right. And what  
20 I'm suggesting --

21 **MR. RICHARD LASHIER:** -- that could  
22 happen downstream --

23 **MS. CYNTHIA WALCZAK:** -- is that an  
24 alternative to that that can fit in the hybrid

1 approach is that we don't use the six-page form. We  
2 use, you know, standard paper, and we print it out.  
3 We sign it. And then we get an image before -- then  
4 the transporter signs it. We get an image. And he  
5 goes on his way with the hard copy.

6 There's really only one official hard  
7 copy, and there's a couple images on the road. And as  
8 far as I can tell, that can't work right now because  
9 there's no -- because EPA's not addressed how to give  
10 it a unique identifier. But there is no other reason  
11 it couldn't work except that.

12 **MR. RICHARD LASHIER:** I mean, it has  
13 worked in a limited fashion. There have been  
14 facilities that have come in and actually gotten  
15 approval to print their own manifest in that fashion.  
16 But we had to look over their operation and make sure  
17 they actually assign a unique number to them. That  
18 was the PSC Stericycle manifest. They actually are a  
19 registered printer, but they print their manifest on  
20 the trucks during the shipments.

21 **MR. SCOTT CHRISTIAN:** So just to sum up  
22 what I heard, just like Robert likes to say, a user  
23 story, the need is -- in the current system, a  
24 generator or broker can go in and create a manifest.

1 As soon as they hit Save, we assign a unique ID number  
2 to that manifest. And then later on in the hybrid,  
3 another manifest ID would be put in because a paper  
4 manifest was used.

5 What I heard your suggest is, is that  
6 additional -- that initial manifest ID number be  
7 printed out on the manifest page that you can print  
8 out from the system at -- today. And you sign it.

9 Then what I heard is you take a  
10 picture, a scan, of it and keep that for your records.  
11 I don't know if that complies with DOT. But -- and  
12 then the transporter takes that one page, keeps it on  
13 their truck, passes to the next transporter and the  
14 next transporter.

15 The TSDF gets it. And since -- the  
16 TSDF has to sign it and give it back to the  
17 transporter, but they can also take a scan or a copy  
18 which some of them at least have the practice of  
19 scanning that.

20 I got you.

21 **MS. CYNTHIA WALCZAK:** I think so  
22 towards the tail end you filled in blanks I hadn't  
23 considered.

24 **MR. SCOTT CHRISTIAN:** Oh.



1                   **MS. CYNTHIA WALCZAK:** Whether the TSDF  
2 or the transporter has the one piece of paper I hadn't  
3 though through. But I do think it would be  
4 advantageous for the generator, in any respect, to be  
5 allowed to keep an image and let the hard copy go with  
6 the transporter because DOT requires him to have it.

7                   But I don't know that -- I, frankly,  
8 think the -- it might be a little bit in the weeds.  
9 But the six-page carbon copy form is kind of a pain  
10 out in the field, you know.

11                   **MR. BARNES JOHNSON:** John, please.

12                   **MR. JOHN RIDGWAY:** I think one of the  
13 potential factors that can lead to success as far as  
14 encouraging the generators to go electronic is going  
15 to be facilitated by the states that are doing the  
16 actual regulation and inspection. And I would see  
17 that as a responsibility that we would take on to  
18 reassure the generators that we have confidence in  
19 this system, that we think it's easier for us to have  
20 a good idea of what's going on and understand in a  
21 more timely way what the generator is doing.

22                   And there's a role there that, with the  
23 exception of the states that EPA is regulating, the  
24 states, otherwise, we would be working with are

1 inspection staff to say, hey, this is good. It's okay  
2 to take a photo image or a pdf. Even if you create a  
3 paper copy for the initial transporter, I think that  
4 we can help minimize the anxiety around that because  
5 we're going to be the ones that are going to be  
6 dealing with discrepancies or questions around the  
7 records.

8 And thus, I think there's a bit of a  
9 responsibility on the states to help support the  
10 generators to embrace the system sooner than later and  
11 show the advantages and understand the advantages and  
12 understand how to use the system as well.

13 **MR. BARNES JOHNSON:** Any additional  
14 thoughts from the Board?

15 Okay. Let me turn it to Tom and see if  
16 he can somehow cogently pull together kind of some of  
17 the major themes. We really, I think, took a walk  
18 around the park here on --

19 **MR. TOM BAKER:** Yeah.

20 **MR. BARNES JOHNSON:** -- Charge Question  
21 5 and covered a lot of important topics, actually. So  
22 I'm glad we -- I'm glad this question spawned this  
23 conversation because I think it was very helpful.

24 So Tom, if you could please share with

1 the Board what you think we got out of it. And others  
2 can weigh in and amend that.

3 **MR. TOM BAKER:** Okay. Yeah. And I'll  
4 -- as I said, I'll go through what my summary is here.  
5 But certainly I'll -- I may miss something, so don't  
6 be afraid to add to this.

7 But you know, the focus on the hybrid  
8 approach, or a phased approach, kind of the benefits  
9 and some of the concerns with that type of an approach  
10 to this e-Manifest solution really needs to be able to  
11 show benefits to user group. And there's concerns  
12 expressed that a hybrid approach provide EPA with a  
13 lot of benefits in the short term, but not many  
14 benefits to the user community.

15 So that was an expressed concern that  
16 needs to be addressed and looked at. And maybe there  
17 might be ways to make sure that we do include burden  
18 reduction on the generators and the TSDFs as part of  
19 this phased approach, make sure we keep that in mind  
20 as we're looking at a phased implementation.

21 Talked a bit about CROMERR, as we  
22 always do, and some of the limitations that we're  
23 faced with the CROMERR restrictions and suggestion  
24 that we potentially look at CROMERR just applying to

1 the backend of the transaction, the TSDf certification  
2 process, but avoid it to complicate the generator-  
3 transporter interactions.

4 Let's see. We looked at -- we talked  
5 about corrections to manifest for a bit; suggested use  
6 technology to identify corrections from paper to make  
7 them electronic; discussed the fact that the TSDf will  
8 likely be the one that'll have to -- in a case where  
9 someone goes offline for a period of time in a hybrid  
10 approach, that the TSDf will need to come back in and  
11 make sure all those manifest changes that were being  
12 done manually are processed into electronic format.

13 And then the last part of the  
14 discussion was really about the manifest form itself  
15 and that, just by nature of a six-part form, the  
16 burden that that creates and as -- a phased approach  
17 could include something to eliminate some of that  
18 paper burden as part of our implementation.

19 And what did I miss? I'm sure I missed  
20 something.

21 **MR. BARNES JOHNSON:** I guess the one  
22 thing I heard -- and I think there was general  
23 consensus on this -- is a very strong desire to have  
24 the hybrid approach be an interim solution. Everybody

1 wants us to get to a fully electronic manifest.

2 Is that fair? I mean, I don't want to  
3 put words in the Board's mouth?

4 **MR. TOM BAKER:** Yeah, no. I think  
5 that's a true statement.

6 **MR. BARNES JOHNSON:** Yeah, yeah.

7 **MR. TOM BAKER:** I don't think we heard  
8 anything different than that. Yeah.

9 **MR. BARNES JOHNSON:** Yeah. And that's,  
10 you know, certainly our objective as well. But I  
11 think that was a theme just for us -- the various  
12 frustration and concerns with the hybrid approach all  
13 speak to the idea of having this virtual transaction  
14 be a place we all want to get to.

15 Okay. That brings us to the end. We  
16 actually had, what three times as many questions as  
17 what we put before the Board. We get -- we decided to  
18 cut it down so we can actually fit it into this  
19 meeting.

20 What I'm going to do now -- and folks  
21 here and folks on the phone didn't hear this, didn't  
22 see this, but I ran around and whispered in  
23 everybody's ear that I was going to ask them for  
24 closing comments.

1           That's what I was running around the  
2 table asking folks to do. I didn't want them -- I  
3 didn't want folks to be caught cold with that because  
4 I know if they're like I am, it helps just to have a  
5 few minutes. I'm not sure we made that entirely clear  
6 to the Board that we would that -- do this.

7           This is an opportunity to, you know,  
8 summarize things in general. Or if there's a topic  
9 that you feel as though needs to be, you know, put on  
10 the record, now is a great time to do it.

11           But I just want to invite members of  
12 the Board to offer any closing comments they may have.  
13 And I guess I'll just start with -- we can start with  
14 Justin and go around if that's -- works for everyone.

15           And then we'll do the Board, and then  
16 we'll do EPA and go from there.

17           **MR. JUSTIN WILSON:** Thank you, Barnes.  
18 Justin Wilson. I have a few points and summary I'd  
19 like to be captured.

20           The first one is, you know, we were  
21 asked about who the -- how to select the testing  
22 community for the e-Manifest system. I suggest that  
23 the Board provide to the EPA e-Manifest group folks  
24 that each of us would elect to participate in that.

1           The next one that I have is -- and it's  
2           -- it -- it's not in the charge questions, but it's  
3           very critical for the retail industry to be allowed to  
4           enter decimal point weights to the tenth or, even  
5           better, to the hundredth of less than one pound for  
6           acute hazardous waste coded streams.

7           Is that clear? Okay.

8           The next one is on the initial hybrid  
9           e-Manifest approach, I recommend that a full  
10          electronic manifesting be allowed should there be  
11          companies out there who have the capability and  
12          technology to do that, and that being not taking the  
13          paper exemption at the generator site, actually  
14          starting electronically there, printing a copy just  
15          for DOT needs while in transit and performing  
16          electronic records to be uploaded to the system  
17          throughout the process from generator to final  
18          disposal facility.

19          I think that, at the same time, allow  
20          the paper exemption for generators. I think that in  
21          those -- in offering those two methods, I think that  
22          suffices because if a generator, their contractor, the  
23          TSDF, chooses to go beyond that and utilize a paper  
24          manifest from the generator all the way through the

1 transporters to the TSDF and the TSDF signs that copy  
2 and then the TSDF when they upload that manifest data  
3 chooses to upload an image file of that completely  
4 signed manifest, I don't see that anything in these  
5 approaches that would prevent that. They're just  
6 doing something extra.

7 I don't believe you need to necessarily  
8 write that in. If they choose to use paper all the  
9 way through along with meeting the hybrid approach  
10 that the EPA has posed, from my perspective, that  
11 would be fine.

12 The next one is I don't know what  
13 influence the EPA has over states. But if possible, I  
14 would recommend that the EPA try to encourage the  
15 various states to utilize this e-Manifest data system  
16 to meet their reporting requirements, not only  
17 biannual reporting which only affects LQGs every other  
18 year.

19 For many of my sites have to perform  
20 SQG annual reporting, which requires, based on my  
21 volume, the data, and number of sites, to spend an  
22 astronomical amount of money with third-party data  
23 contractors to manage and facilitate that reporting on  
24 my behalf.



1 I also, when I was in the role of  
2 reporting, signed thousands -- I mean that literally -  
3 - of papers to satisfy states for their notification  
4 process and reporting process with wet ink because  
5 that is their interpretation of what the EPA expects -  
6 - some states, not all states.

7 That's why I encourage somehow  
8 incentivizing states to utilize this data. Maybe  
9 they'll see themselves financial benefits to use it  
10 for reporting.

11 And then finally, we went through  
12 multiple discussions on fees and how those should be  
13 assessed and what they should be based on. I don't  
14 think any of us were fully prepared with the different  
15 options that came up to make a decision on that. So I  
16 recommend that we carry that on to the next Board  
17 meeting, the fees discussion, so that we have time to  
18 talk to experts within our companies and try to  
19 determine what may be for industry and the EPA is the  
20 best solution as we see it.

21 That's all I have.

22 **MR. BARNES JOHNSON:** Thanks, Justin.

23 Cindy?

24 **MS. CYNTHIA WALCZAK:** Thank you. I

1 want to thank EPA for their thoughtful and  
2 comprehensive overview for the past three days. I've  
3 been very impressed, really, with your enthusiasm for  
4 the project and obvious commitment. And I'm not sure  
5 I came as well prepared as I might have, but I feel  
6 completely filled in now. So thank you.

7 I would like EPA to consider rolling  
8 this out to apply to licensed RCRA TSDFs and their  
9 customers, which is to say I think that we don't have  
10 a very good handle on who's accepting all manifested  
11 waste; wastes that don't have to be on a manifest but  
12 are; wastes that are state-regulated but not under  
13 RCRA, maybe under a special waste program.

14 I think, EPA, you should consider  
15 because we don't have good numbers on the universe to  
16 which you are referring when you bring in these other  
17 groups. I'd like EPA to consider limiting it to  
18 licensed TSDFs and their customers RCRA TSDFs.

19 And the other thing I -- and probably  
20 more importantly, frankly -- I think -- I know, as we  
21 all know, that the manifest is a dual DOT-EPA form.  
22 And all of us in this room know RCRA, and many or most  
23 of us have been doing RCRA for 20 or more years.

24 I don't know that there's too many of

1 us in this room that can say that about DOT. And  
2 since it's a dual -- it's a bi-Agency form, if you  
3 will, I think it's really problematic that they're not  
4 more engaged.

5 Having said that, I do understand that  
6 you cannot compel DOT to become engaged. So if, in  
7 fact, that is the reason that they're not here, I  
8 would suggest that we at least get a DOT expert  
9 involved.

10 It would be best to have a DOT  
11 representative -- failing that, perhaps a DOT expert -  
12 - because I think there are -- I think there are quite  
13 basic DOT requirements that, in our conversations, we  
14 have either overlooked or dismissed as easy to solve.  
15 And I'm not sure that that's true.

16 That's all I've got. Thank you again.

17 **MR. BARNES JOHNSON:** Thanks, Cindy.

18 John, please.

19 **MR. JOHN RIDGWAY:** Thank you. John  
20 Ridgway.

21 Also a great appreciation and thank you  
22 to EPA leadership and staff that are struggling with  
23 the constraints that have been dished up and somewhat  
24 out of your control. I think you're doing a great

1 job. It's an honor to be here on the panel.

2 I agree with what's been stated. I  
3 support the mission. I will work with my state and  
4 counterparts to continue to build support.

5 Building on what Cindy just said, the  
6 transportation factor, to me, I take it a step  
7 further. It -- I haven't heard anybody reference the  
8 emergency responders, the first responders. And this  
9 gets to the Department of Transportation. You know,  
10 they -- that's why they want to have that paper copy,  
11 so that the local county sheriff or fire department,  
12 volunteer, or whatever, who's going to be dealing with  
13 an incident is going to be completely assured that  
14 this change is not going to hamper their ability to  
15 address an emergency and hopefully, in fact, might  
16 help them.

17 Maybe not now, but I can imagine -- and  
18 in our state, we've already developed some mobile apps  
19 directly for emergency responders to know where  
20 hazardous materials are stored so that they can go  
21 onsite to an incident even without access to cellular  
22 networks and already know what is stored based on  
23 other reports at these facilities.

24 I can imagine an offshoot benefit of

1 this system would be that those emergency responders  
2 might be able to get online and/or be trained to get  
3 quick access not only to the paper copy. And it's not  
4 hard to imagine that the paper copy may not be  
5 available because the truck is fully engulfed in  
6 flames. This might be a really good backup for them  
7 and maybe initially -- or eventually -- excuse me --  
8 become the primary source of where they could maybe  
9 even do searches geographically for shipments and  
10 understand better what they need to be prepared for.

11  
12 But my guess is if this is rolled out  
13 and they're not aware of it, there will be anxiety,  
14 and it'll just slow things down. So communication  
15 with not only U.S. DOT, but our state counterparts and  
16 the emergency response network might end up being, in  
17 fact, some advocates for this system as envision, if  
18 not in the first phase.

19 I brought up earlier, and again I want  
20 to emphasize. The EPA regions have a role here to  
21 help this succeed in ensuring that training and  
22 collaborative efforts with the states that are  
23 authorized for RCRA understand the system would not be  
24 intimidated to use it, might even be out there while

1 doing inspections supporting its use, familiar with  
2 how to log on and show what they know and how the  
3 generator can use it to their advantage, including to  
4 be the file cabinet, in essence, for these documents.

5 There's a role there, and I sure  
6 encourage EPA to think about how to, no pun intended,  
7 roll this out for the regional RCRA programs.

8 I'm a big fan of the idea of somebody  
9 just simply taking a cell phone and taking a photo of  
10 a paper copy. And boom, it's done right there so that  
11 they have their record initially that can either then  
12 be printed off for the transportation needs and/or for  
13 their own temporary satisfaction that they got a  
14 record of the signatures as the process goes along to  
15 the initial -- or eventual data entry -- pdf or scan,  
16 whatever that might be.

17 I think the terminology of suggesting -  
18 - and I know this is a little inconsistent with the  
19 mandate by Congress, but call this a Phase I rather  
20 than a hybrid, which to me intuitively suggests it's  
21 going to change eventually.

22 And yes, I understand that paper needs  
23 to be considered down the road as an option, but we  
24 really want to show that going electronic is not only

1 possible, but to an advantage and viable. And sooner  
2 or later that paper process should, you know, be  
3 retired so we don't have to maintain duplicate  
4 efforts.

5 And finally, on the question or  
6 relationship to biannual reporting -- and we haven't  
7 talked about this with -- in much detail, but there is  
8 a difference between tracking manifests and annual  
9 reports. And certainly, theoretically, it makes sense  
10 that if this works well, it should support easy  
11 annualizing of waste generation.

12 It may not be a one-to-one parody of  
13 information. But anything that EPA can do to help  
14 build that linkage to cut down on the duplication of  
15 records and signing, that should be, I think, a long-  
16 term goal to continue to be discussed and considered  
17 in this system because this really could make life a  
18 lot easier for the generators and everybody else,  
19 including the states and EPA if this can be the  
20 primary source of information rather than having to do  
21 it all again through a different reporting system.

22 In our state, it is annual reporting.  
23 In our state, it is more than large-quantity  
24 generators that file these reports. So the benefits

1 go beyond those large-quantity generators. And I do  
2 envision the system can make that easier down the road  
3 to track real time.

4 And finally, I do want to comment that  
5 I think it's good for the public to have access to  
6 this data for all the things that we can imagine and  
7 other things that we can't to get a -- to have a  
8 better picture of how we're doing in reducing the  
9 generation of hazardous waste and what kind of  
10 hazardous waste is going up and going down and,  
11 ultimately, creating less of it and knowing whether  
12 we're doing that.

13 These are different kinds of goals, I  
14 understand, than what we're addressing here directly.  
15 But I think that there is an opportunity there as  
16 well.

17 So we as states appreciate that we  
18 would want to be able to have access to this  
19 information. Local governments, emergency responders,  
20 academics, communities that are concerned about  
21 shipments that are coming through -- there are many,  
22 many people that will benefit from this that currently  
23 don't have access to it. And there is a high degree  
24 of responsibility to be sure that they understand the



1 caveats around it as well.

2 But overall, I'm just very supportive  
3 of this and look forward to supporting it the best we  
4 can.

5 **MR. BARNES JOHNSON:** Thank you, John.  
6 Raj?

7 **MR. RAJ PAUL:** First, I'd like to thank  
8 EPA for this opportunity and the team for spending the  
9 last three days with us. And as I highlighted last  
10 time, I'd like to commend the development team to get  
11 to where you are, given all the constraints involved  
12 around that.

13 Regardless, this is my first exposure  
14 to a government-sponsored or entity-sponsored project.  
15 I'm an outsider, so pardon my ignorance if I bring up  
16 certain things. I think I want to start off with a  
17 recognition to Mr. Klopp for taking it to the next  
18 level.

19 As an outsider, it looks like the very  
20 essence of why we are doing this, I think it's  
21 probably right from the beginning of the budget  
22 constraints have, I think, challenged a lot of the  
23 thought process. Because, specifically today, when I  
24 see the industry questioning certain things and when I

1 see the states questioning certain things. If DOT got  
2 included in recognition, if DH has got included, or if  
3 the emergency transporters got included, I think the  
4 fundamental business process, which is in play today,  
5 was never questioned, is my feel. And I think that's  
6 probably because a lot of the budget constraints.

7 Coming from the private sector, if  
8 you're spending money and if you're building  
9 something, you've got to push the envelope to the next  
10 level, right. I see that missing here. Again, I  
11 think it's probably because of budget constraints, not  
12 because of capability or anything like that.

13 In this digital age, technology can  
14 solve a lot of problems. I think Mr. Klopp brought a  
15 lot of technology. I mean, there's a lot more.

16 I mean, a good example is we're dealing  
17 with the hazardous waste here, right? You would want  
18 to have the capability to track it real-time someday,  
19 right, or to find (inaudible) so that you don't have  
20 to deal with an incident inside a city or a crowded  
21 place, right?

22 I think some of those futuristic things  
23 probably -- I wouldn't say futuristic things. I mean,  
24 things do happen today in a lot of spaces.

1 I would suggest relooking at the  
2 business process, the existing business process.  
3 Whether you're going to implement the changes or not,  
4 at least it's good to revisit because, initially, my  
5 first day, I thought probably change is not something  
6 that the industry would want to adopt or the states  
7 would want to adopt.

8 But today, what I'm hearing is both the  
9 industry and the states are questioning because the  
10 capability within some of the states seem to be a lot  
11 better than what the system could provide, for  
12 example, from the industry as well.

13 I would suggest we take a step back to  
14 see if the business process can be redefined. Then I  
15 think the whole hybrid approach could get questioned  
16 then, do we need a hybrid approach, right. That is  
17 one thing I wanted to bring up.

18 The other one is I think that we're  
19 talking about user fees and so on. I think it's too  
20 early to discuss those because the total cost of  
21 ownership by EPA of the system probably, I think, it's  
22 too early to determine, if I'm not wrong. Because  
23 without knowing that, I mean, I think Mr. Klopp  
24 brought up the whole startup nature.

1           If you're starting a business, you need  
2           to know what does it take to launch something in order  
3           to come out to the revenue model. And the user fee,  
4           for me, is the revenue model. So how can you come out  
5           with revenue model without knowing what does it cost  
6           to build and sustain the system over a period of time,  
7           right?

8           That's all I have. Thank you.

9           **MR. BARNES JOHNSON:** Thank you, Raj.  
10          Rob, please.

11          **MR. ROBERT KLOPP:** Okay. I've just  
12          maybe four.

13          First, I want to thank sort of  
14          everybody. It's my first time in one of these boards  
15          as well, and I appreciate the -- your willingness to  
16          put up with a bunch of really wacky ideas.

17          I think the things I want to point out  
18          we've talked about over the last couple days. I  
19          think, in some ways, the most important one is I  
20          really would advise you to become much more serious  
21          about the customer involvement part of Agile  
22          development. I think that there is lots of interest  
23          from the people and the companies represented on the  
24          board as well as all of the folks that are in the room

1 as well as all the folks that are on the call.

2 And I'll be really surprised if you  
3 have an issue in getting a serious commitment from  
4 folks that are going to have to use this system to  
5 help you figure out exactly what it ought to be doing  
6 in order to make it attractive.

7 I think if you make it attractive, then  
8 a whole bunch of the other problems around fees and  
9 things like that become very much secondary because it  
10 will become attractive.

11 I think that attractive to a business  
12 has got to do with economics, though. And so I think  
13 that a focus on -- I mean, to Raj's point, I think  
14 that, you know, you can come up with an idea of the  
15 fees that you need to charge. But if you're going to  
16 be a viable business, you need to be able to extract  
17 those fees from the users. And that's got to be a  
18 beneficial exchange for everybody.

19 So I would -- as you involve the  
20 customers, I think that you need to think really hard  
21 about this idea that there's a particular customer  
22 that's going to give you \$1 million year and that you  
23 have to provide \$1,000,0001 worth of benefit, or else  
24 it's not -- this dog just won't hunt.

1           The sort of -- the next thing is -- and  
2 I really believe -- and this is another way of stating  
3 what I think Raj said about the business process. I  
4 really think that the focus on the manifest is a  
5 legacy from paper manifests. I really think that what  
6 you're really -- if you think about your objectives  
7 and you rethink those objectives in terms of tracking  
8 containers of hazardous wastes and a manifest was just  
9 a collection of those things -- again, a bit of a  
10 legacy -- I think that you'll find that that's really  
11 the thing that's important, is tracking containers of  
12 hazardous waste and the transfers of those containers  
13 between the various constituents of the business  
14 process.

15           And I think if you go to that level,  
16 you're going to find that you can connect into all of  
17 the existing systems that all of the commercial  
18 entities have created because what they do is crack --  
19 track containers, not manifests. And I think all of a  
20 sudden, the whole thing might become much simpler.

21           And then the last thing, I think, is I  
22 would like to suggest something maybe for the next  
23 Board meeting. And that is I think I'd like to -- I  
24 would be interested in engaging in a discussion about

1 what the metrics are that define success for this  
2 thing.

3 At a fairly low level, how do you  
4 determine when, you know, you have a problem because  
5 there's too many calls to a helpdesk? How do you  
6 determine whether or not the first phase of a rollout  
7 is actually rolling out successfully and you're  
8 getting the acceptance that you need and stuff like  
9 that?

10 How are you going to measure the -- all  
11 of these things and build some of those things into  
12 the system so you get those measurements out? I think  
13 that a discussion about how you guys -- how you view  
14 the measures of success would be a really interesting  
15 discussion for the Board going forward. So ...

16 **MR. BARNES JOHNSON:** Thanks, Rob.  
17 Mike?

18 **MR. MICHAEL HURLEY:** Hey, it's Mike  
19 Hurley.

20 One of the things of going second to  
21 last is pretty much everyone's stolen all the good  
22 stuff. So really, my job is to use up everything else  
23 so that Tom will have nothing to say at all. And I  
24 have to flee for the airport in, like, 15 minutes.

1           So first of all, thank you so much to  
2 EPA for letting me be part of this. This has been  
3 just outstanding. It's been terrific.

4           And especially thank you to Steve and  
5 to Scott and to Dave for all the work you guys have  
6 been doing on this. I know how hard you've been  
7 working on this. And this is great.

8           And everyone has pretty much covered a  
9 lot of the major points that I had. But one of things  
10 I was sort of thinking about a lot is the concept of  
11 the burden reduction. And I know you guys were  
12 talking about -- Cynthia and Justin were talking about  
13 that a lot. And I'm thinking about that a lot, too.

14           And it's not just for the generators in  
15 all this, but the states as well. You know, what we  
16 don't want to do is come up with a new process that  
17 transfers some work, like, an amount of work to a  
18 different person who's already over-taxed.

19           So really -- and I think going in that  
20 direction of burden reduction, we really need to work  
21 with, you know, Tom's construct of the phased approach  
22 as opposed to the hybrid because the hybrid sort of --  
23 you've given it a name, so it's a permanent thing now.  
24 So let's call it a phased approach, and this is just



1 temporary. And we will move through it.

2 You know, and again, to -- we were just  
3 saying is the next time we have a meeting, maybe if  
4 someone from DOT could come. I don't know if there's  
5 an office of CROMERR. I've never followed it up all  
6 the way to that. But if someone could -- from there  
7 could come and explain why they're doing this to us --  
8 I think everyone would be very intrigued to have them  
9 explain this as if I was a five-year-old, please.

10 And that's pretty much all I have to  
11 say. Certainly, again, too, as we went over with the  
12 helpdesk issue -- and Raj, I think you just killed it  
13 with the prevention. You know, we do this right, we  
14 don't have to have tons of support on the backend.  
15 It'll be good to go from -- right from the start. And  
16 I think that really should be the goal.

17 And that's pretty much all I have.

18 Done.

19 **MR. BARNES JOHNSON:** Thanks, Mike.  
20 Tom?

21 **MR. TOM BAKER:** Yeah, last but not  
22 least here. So again, thanks to EPA for having this  
23 public session and really assembling this advisory  
24 group here. I think it's -- you did a good job making

1 a diverse group and pulling this together. And I've  
2 really enjoyed hearing the differing opinions and  
3 learning from the other Board members. So you know,  
4 it's been educational over the last three days for  
5 sure.

6 Just very, very big, broad themes here  
7 -- I think you heard some of them already -- is, you  
8 know, how do we measure success in this process. We  
9 can't lose sight of what the goals are of that One  
10 Year Rule.

11 And decisions that we make, we need to  
12 make sure it's in the guise of burden reduction, you  
13 know, and working closely to integrate with existing  
14 systems in industry, not making efforts that may be  
15 adding cost, you know, unintentionally. So that's the  
16 challenge.

17 And with respect to, you know, the  
18 industry groups, I think we need to look closely at  
19 reaching out to those small or recyclers, those -- the  
20 small receiving facilities that maybe aren't your  
21 traditional larger TSDFs and make sure we capture some  
22 of their concerns as well in how we talk about  
23 transferring data between EPA and facilities because I  
24 think it's important to hear from them as well.

1 I look forward to hearing or getting  
2 more charge questions in the future and further  
3 exploring this project, but thank you.

4 **MR. BARNES JOHNSON:** Thank you, Tom.  
5 Okay. Let me turn it over to MiMi and closing  
6 comments from EPA.

7 **MS. MIMI GUERNICA:** Okay. Well, first  
8 of all, I want to thank my team because we have a  
9 really terrific team here at EPA. We have a huge  
10 project on our hands, and we have a very lean team.  
11 And they've been great. And so I just want to  
12 publicly acknowledge all of their contributions.

13 And of course, I want to thank the  
14 Board. I do think it is a very diverse group, and  
15 we've gotten some great ideas from all of you.

16 We will work over the next -- oh, I  
17 want to say months, but years, to better the system.  
18 Certainly, I think we can improve our user engagement,  
19 and we will take those suggestions to heart and work  
20 with the regions and reach out to the states in order  
21 to get some concrete input and also to begin the  
22 training process so that our user community can be  
23 more familiar with the system.

24 We do have some legal constraints, and

1 we have a political environment in which we operate.  
2 So those are items that we have to be cognizant of as  
3 we move forward.

4 That said, we will try to be as  
5 responsive and as creative as we can be. And we very  
6 much appreciate all of your remarks, and we look  
7 forward to continuing to work with you and also for  
8 your support as we move forward.

9 Thank you.

10 **MR. BARNES JOHNSON:** Thanks, MiMi. So  
11 from my angle, I want to thank the Board for their  
12 energy this week. It's kind of tough sitting for  
13 three days straight and walking through this process.  
14 So I don't know about you, but at the end of each day,  
15 the brain's a little fried.

16 So as I said -- as I think I said  
17 before, you know, your energy and then, also, just the  
18 diversity of viewpoints here, I think, really brings  
19 strength to this group. So you know, when Congress  
20 developed the composition of the Board, I thought it  
21 was a very thoughtful way of doing by having these  
22 diverse angles come to the problem.

23 I'm looking forward to trying to, you  
24 know, getting -- and Fred is going to tell us more

1 about how we get to this point. But there will be a  
2 report from our three days of engagement here. And  
3 that is going to provide a lot of really great advice  
4 for us as we, you know, continue forward.

5 Obviously, the Board is something that  
6 we are going to continue to tap into to seek advice  
7 and counsel. I think the issues will evolve over  
8 time. We'll confront new challenges, and we'll want  
9 your input on new issues as we get farther and deeper  
10 into this, so -- and particularly as we move from the  
11 development stage into the operational stage. So  
12 we're looking for, you know, input all along that  
13 path.

14 Anyway, again, thanks for taking time  
15 out of your busy schedules and for offering your  
16 viewpoints so freely.

17 Let me turn it over to Fred at this  
18 point.

19 Oh, the other thing I will say is  
20 there's a tremendous amount of interest in the  
21 thinking and the viewpoint of you. I understand that  
22 we had 700 people this week listening in to us, as  
23 many as, what, 450 or so at any one time was our  
24 maximum peak. There's a tremendous amount of interest

1 in this input.

2 **MR. JOHN RIDGWAY:** John Ridgway here.

3 I just want to add to the thanks to all those people  
4 who took the time to call in and listen to a pretty  
5 dry meeting, perhaps. They deserve some credit, and  
6 we want to continue to encourage them to contact EPA  
7 or the Board. EPA, I guess, is the right channel.  
8 But they deserve thanks as well.

9 **MR. BARNES JOHNSON:** Thanks, John.

10 **DR. FRED JENKINS:** Thank you, everyone.

11 So first, I want to -- I just have a few closing  
12 remarks, and then we can all go home.

13 I first want to thank Barnes for his  
14 wonderful, masterful job as the -- his first time  
15 chairing the new e-Manifest Advisory Board. You did a  
16 wonderful job. It was wonderful working with you over  
17 these last few days.

18 Thank you so much to this Advisory  
19 Board. You know, I -- thank you all for your  
20 commitment, your hard work.

21 I have to say I've served with EPA as a  
22 DFO for the last seven years -- going on seven years.  
23 Primarily, in my previous office and in coming over  
24 here to serve as DFO for this new Advisory Board, I

1 have to say I know a uniquely talented, dynamite  
2 advisory board when I see one. And you all are  
3 certainly it. From my experience, it's obvious. You  
4 all are dynamite.

5 On behalf of the Agency, I want to  
6 thank you all for your service. And so -- and it's a  
7 pleasure for me to serve as your DFO, and I look  
8 forward to it.

9 I want to say a special thanks to Mathy  
10 Stanislaus, the Office of -- or Land and Emergency  
11 Management Assistant Administrator for his support in  
12 helping us put together this meeting and also for  
13 participating in this meeting.

14 Thank you to the entire e-Manifest EPA  
15 team. You all are great to work with. And thank you  
16 all for having me on board and working this project.

17 And I've got to say thank you to the  
18 public commenters for their participation. Moving  
19 forward, from my experience, I personally think that  
20 next time around we're going to have a lot more public  
21 commenters, a lot more public comment, I would  
22 anticipate.

23 With that said, I would like to say  
24 that, moving forward, I want to remind the public and

1 reiterate that's specified in our Federal Register  
2 Notice. Please submit your written public comments  
3 into our public online docket via regulations.gov.  
4 It's much more efficient than sending me emails. It  
5 works a lot better. That's our most efficient way of  
6 collecting your public comments.

7 And please pay attention to the  
8 timelines for -- that we encourage you to submit your  
9 public comments because the earlier you submit them,  
10 the sooner I can provide them to the Advisory Board  
11 for their review before the meeting.

12 Also, if you are interested in  
13 providing oral public comments at the meeting, we  
14 encourage you to contact me ahead of time as well and  
15 so we can make arrangements for your oral public  
16 comments.

17 And if you have any questions about any  
18 of our future upcoming meetings, I would be more than  
19 happy to answer any of your questions. Give me a  
20 call. Email me. I'll be more than happy to talk to  
21 you and answer to any of your questions.

22 I want to again acknowledge and thank  
23 all those who listened online. As Barnes said, we --  
24 I mean, the numbers are shocking. We had -- to



1 reiterate what he said, we had 700 people turn to our  
2 streaming channels, what I understand it. But we had  
3 a captive audience at its peak there at about 460 IP  
4 addresses alone. That's at least -- I mean, it could  
5 have -- you've got boardrooms of people listening. So  
6 that's a lot of people listening to us.

7 And thank you so much for all the  
8 public participation out there in the worldwide. This  
9 is -- these are people worldwide as well. I saw the  
10 numbers myself all around the world.

11 Thank you to our contractors for their  
12 support in this meeting.

13 And in regards to the meeting minutes,  
14 so at the close of this meeting, we will have posted  
15 within 90 days -- we have a 90-day deadline to publish  
16 the meeting minutes, so the Advisory Board reports of  
17 this meeting. The report is -- what it contains --  
18 well, it will contain, well, the Advisory Board's  
19 advice to the Agency on each of the charge questions.

20 My role as the DFO is basically just to  
21 facilitate that process. Essentially, the Advisory  
22 Board is responsible for writing the report. I  
23 facilitate that, make sure drafts get circulated  
24 amongst the Advisory Board. Give us within the 90-day

1 timeline to get that done.

2                   And with that said, I don't have  
3 anything else to add. This meeting is officially  
4 adjourned. Thank you all so much for coming and have  
5 a wonderful evening.

6                   (Meeting adjourned.)