

U.S. DEPARTMENT OF TRANSPORTATION
 PIPELINE AND HAZARDOUS MATERIALS
 SAFETY ADMINISTRATION

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VOLUNTARY INFORMATION-SHARING SYSTEM
 WORKING GROUP

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PUBLIC MEETING

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WEDNESDAY
 DECEMBER 19, 2018

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The Voluntary Information-Sharing System Working Group met in the Oklahoma Room, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C., at 8:30 a.m., Diane Burman, Working Group Chair, presiding.

PRESENT

HON. DIANE BURMAN, New York State Public Service Commission, Chair
 MICHAEL BELLAMY, General Manager, PII Pipeline Solutions (GE)
 BRYCE BROWN, Vice President, Group Strategy Management, The ROSEN Group
 ROBERT BUCHANAN, General Manager, Seal for Life Industries
 DAN COTE, Vice President of Pipeline Safety & Compliance, NiSource Gas
 MARK HERETH, Principal, Process Performance Improvement Consultants
 LEIF JENSEN, Senior Director of Asset Integrity, Sunoco Logistics

WALTER JONES, Associate Director of Occupational
Safety & Health, Laborers' Health & Safety
Fund of North America

MIKE LAMONT, Vice President, Integrity Plus

JOHN MACNEILL, National Safety Director, Utility
Workers Union of America*

ALAN MAYBERRY, Associate Administrator for
Pipeline Safety, PHMSA

RANDY PARKER, Vice President of Regulatory
Affairs, Kinder Morgan

SIMONA PERRY, Research Director and Founder,
Pipeline Safety Coalition

CHRISTOPHER WARNER, Senior Vice President, Mears
Group, Inc.

MARK ZUNIGA, Vice President of Information
Technology, UniversalPegasus
International,
Inc.

ALSO PRESENT

CHRISTIE MURRAY, Designated Federal Official

SHERRY BORENER, PHMSA

BILL CROCHET, Subcommittee Member

MICHELLE FREEMAN, PHMSA

MAX KIEBA, PHMSA

KAREN LYNCH, PHMSA

CHRIS McLAREN, PHMSA*

HUNG NGUYEN, PHMSA

DRUE PEARCE, Deputy Administrator

AMY SLOVENAK, PHMSA*

*Present via teleconference

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

2 8:31 a.m.

3 DR. MURRAY: Well, good morning,
4 everyone. We're going to go ahead and get
5 started with day two of our VIS Working Group
6 meeting.

7 Thank you all for joining us a second
8 day, those of you who have opted to join us in
9 person and those who are joining us again today
10 over the phone.

11 One of the things that I know that we
12 want to get accomplished is to definitely recap
13 the work from yesterday and to continue and
14 advance our efforts today.

15 Again, I'm Christie Murray, and I'm
16 serving as the Designated Federal Official for
17 the Voluntary Information-Sharing Working Group.
18 And I am joined by Commissioner Diane Burman, who
19 serves as the VIS Working Group Chair.

20 One of the first things that I want to
21 do is to just briefly introduce today's agenda.
22 For those who didn't join us yesterday, we had a

1 lot of great report-outs and discussions on the
2 recommendation report. So, I suspect, after we
3 get through some of the introductory matters with
4 staff and Committee introductions and opening
5 remarks, and calling the meeting to order, we'll
6 move right into the business of the Committee.

7 So, we'll get updates from the
8 Subcommittees. We'll talk about any punch list
9 items we have. I know Mark Hereth created a
10 great Gantt chart, timeline chart, that we want
11 to talk about. There's one public comment that
12 Diane will brief the group. And then, we'll talk
13 about next steps beyond today's meeting as we
14 move forward.

15 A few housekeeping points. Those who
16 are here visiting us in the DOT Headquarter
17 Building, just as a reminder that, as you move
18 about the business, you will require an escort
19 today during lunch and otherwise, outside of the
20 immediate restroom area.

21 If you haven't already, please silence
22 your mobile devices. And if you're on the phone,

1 please mute your line until you're ready to
2 speak, just to minimize noise.

3 And for those who are participating
4 from the public and in the audience, we
5 appreciate you joining us and we are happy to get
6 your comments. We would ask that you hold your
7 comments until the Chair opens the floor up for
8 comments, and we would ask that you keep your
9 remarks brief.

10 And the restrooms are located out
11 these doors immediately to my right and in the
12 back far corner of the area that we're in.

13 In terms of safety, we're located at
14 the DOT Conference Center, the Oklahoma Room, at
15 1200 New Jersey Avenue, Southeast, Washington,
16 D.C. This building is alarm-equipped, and in an
17 emergency an alarm will sound and provide
18 information on actions we should take. In the
19 event that we need to shelter in place, such as a
20 tornado, we will move into the interior part of
21 the building until otherwise directed.

22 If the emergency requires an

1 evacuation from the building, the exits from this
2 room are located on the right, and the quickest
3 way out of the building is this far right corner.
4 You make a right, and then, go out of the doors
5 there. It will immediately take you out near the
6 security station. Once you get out of the main
7 security doors, you make a right and follow it
8 all the way back until you get to the waterfront
9 area, and our rallying point will be near the
10 waterfront at the fountain.

11 In any of those instances, if we need
12 to identify who else is with us, take a look to
13 your right and make sure that you can account for
14 that individual.

15 In the event that we have a medical
16 emergency, Ms. Kirse Kelly, are you still willing
17 to help with CPR? And, Karen, in the event that
18 we need to find an AED, are you willing to help
19 locate one? Thank you very much.

20 I am willing to call 911 in case of an
21 emergency and make sure that we can get medical
22 services here, and also call security at

1 202-366-0333.

2 In the event that we have an
3 earthquake, remember to drop, cover, and hold on.
4 If there is an active shooter nearby, remember to
5 run, hide, then fight.

6 And if you're walking in this middle
7 area again, just remember that there are several
8 cords about. So, please make sure that you pay
9 attention and we don't have any trip hazard
10 situations.

11 All right. With that being said, I
12 will turn it over to our Chair to call the
13 meeting to order and any opening remarks.

14 CHAIR BURMAN: Thank you very much.

15 I'm going to go do the roll call,
16 starting at the top right. You can just
17 introduce yourself, your name, your title, and
18 your organization.

19 (Off-microphone introductions.)

20 CHAIR BURMAN: And those on the phone?

21 Okay. Hearing none, those in the
22 audience?

1 MEMBER MacNEILL: Hi. John MacNeill,
2 the Utility Workers Union of America,
3 representing labor.

4 CHAIR BURMAN: Thank you. Anyone else
5 on the phone?

6 MR. McLAREN: Chris McLaren, PHMSA.

7 CHAIR BURMAN: Chris, I heard you.
8 Anyone else on the phone?

9 MS. SLOVENAK: Amy Slovenak, PHMSA.

10 CHAIR BURMAN: Anyone else on the
11 phone?

12 Okay. Hearing none, those in the
13 audience who want to identify themselves?

14 (Off-microphone introductions.)

15 CHAIR BURMAN: Great. Thank you. It
16 appears that we have an established quorum.

17 The meeting will be captured in
18 meeting notes, and the docket number for this
19 meeting is PHMSA-2016-0128.

20 I'd just like to remind folks to
21 please introduce yourself each time you speak, so
22 your comments can be acknowledged in the meeting

1 notes. Set your tent card on its side if you
2 care to make a comment, and I'll acknowledge
3 phone participants for comments. And we will
4 allow opportunity for audience participation as
5 well.

6 At this time, I'm going to turn it
7 over to Drue Pearce, who is here with us this
8 morning. I have asked her to talk to us a little
9 bit about the why, the why of why we do what we
10 do.

11 Thank you, Drue.

12 MS. PEARCE: Well, thank you, Madam
13 Chairman.

14 And welcome, everyone, to this second
15 day of this meeting of the VIS FACA. I want to
16 thank each and every one of you, both those of
17 you who are serving as part of the FACA group
18 itself and also those of you who have been part
19 of the audience all the way through the process.
20 We very much appreciate your service. We think
21 this is a very important effort, and we look
22 forward to the recommendations.

1 I'll be very brief because you've got
2 a packed schedule today, and I'm actually excited
3 to hear the recommendations from all of you.

4 But I want to tell you that, as far as
5 Skip and I are concerned, and certainly the
6 Secretary, who starts every speech talking about
7 safety, but safety isn't just a word. It
8 actually is a culture. It's a culture in our
9 personal lives, in our family lives, in our
10 corporate life, departmental life if we're in
11 government, agency life if we're an agency like
12 PHMSA, contractor life if we're a contractor
13 working for one of our stakeholders.

14 And you're only as good as your safety
15 system, and that means that everyone has to be
16 part of it and everybody has to believe in it,
17 and everybody has to live it each and every day.
18 That's what's so important. And the
19 recommendations that you bring forth will help us
20 make sharing information so that we can work with
21 others to prevent incidents because we learn
22 information early, learning from each other.

1 That will help us move toward that goal great
2 deal.

3 It's been hard in this industry to
4 share information previously. We understand
5 that. And certainly, it's difficult for us. I
6 worry sometimes that we don't have much
7 information as we should have. Our state
8 partners think they give us too much information
9 and always frown when we say we want more. But
10 perhaps we just aren't sure how to use it as well
11 as we could. So, that is one of the learning
12 things that we are trying to do at PHMSA.

13 But I do look forward to carrying your
14 recommendations forward to Congress. We're in
15 our reauthorization year. We've been reminding
16 the Secretary that this FACA is going to be
17 finishing work, making recommendations to her,
18 which we will certainly endeavor to have her
19 accept and, then, move forward during the
20 reauthorization discussions.

21 And once you're finished with your
22 recommendations, please don't be strangers. Keep

1 coming back. Keep giving us ideas. Keep
2 reminding us of what you've learned and what
3 recommendations you've made, and how you think we
4 should be moving forward. That's very important,
5 too.

6 So, thanks a lot, and I look forward
7 to listening and asking questions.

8 CHAIR BURMAN: Thank you very much.

9 Now we're going to pull up the agenda.
10 While we're doing that, does anyone have any
11 questions from yesterday's meeting?

12 (No response.)

13 CHAIR BURMAN: Well, while we're
14 waiting for that, I do know that one of the
15 issues that we were going to circle back on and
16 one of the homework assignments was Dr. Perry and
17 Dan Cote were working on resolving the challenge
18 of the tone of the report as it concerns the
19 public interest and industry concerns, public
20 concerns and industry concerns. And I wonder if
21 you can give us an update on that and where we
22 might be.

1 MEMBER COTE: Wen (phonetic) from the
2 AGA, Simona, and I worked late yesterday
3 afternoon and this morning to craft language that
4 I sent to all of you a little while ago, where we
5 believe that we have agreement on a statement
6 that we can make that both identifies the issue
7 of trust between public and the industry and
8 still makes a positive, forward-looking statement
9 on how we, as a group -- we jointly as the public
10 and the industry -- can address the concerns that
11 both sides have.

12 On that basis -- and, Simona, you'll
13 bring this thing out if I screw this up -- on the
14 basis of that, there are a number of sections
15 that speak to trust. This paragraph or couple of
16 sentences is designed to go somewhere
17 prominently, either in the Executive Summary or
18 in the foreword, somewhere that makes a statement
19 about this clearly very early and very strongly
20 in the document, and all of the other issues of
21 trust and distrust between the parties come out
22 in the other sections.

1 And I'll read it, if I may. "Lack of
2 trust between industry and the public. Public
3 wants industry to be held to the highest
4 standards and accountable for incidents and
5 accidents. Public wants honest communication
6 with the industry and meaningful education and
7 direct involvement, as defined as direct
8 engagement and continuous improvement and lessons
9 learned on pipeline safety and SMS. Industry
10 wants to collaborate with the public in good-
11 faith discussions on pipeline infrastructure,
12 safety needs, and improvements, and open
13 communication regarding pipeline safety." That
14 is the statement.

15 And so, our joint recommendation is
16 that we take out all of the other references to
17 that lack of trust and communications issue and
18 that becomes its replacement, as I said, again,
19 inserted prominently early in the document in
20 terms of the culture issues.

21 CHAIR BURMAN: Okay. Any thoughts?
22 Christopher?

1 MEMBER WARNER: So, when I read this
2 last night, the one thing that struck me was that
3 first phrase. While we understand that that is
4 true and is important, it didn't seem to fit into
5 what the VIS is about, which is about
6 communication.

7 So, I'm wondering if, in that section
8 where we're talking about the different needs, if
9 rather than have that first phrase, we start
10 with, "The public wants honest communication with
11 industry."

12 MEMBER COTE: We discussed that a lot.
13 And, Simona, again, feel free to weigh-in. That
14 phrase is inserted to recognize history, and yet,
15 not do it in a way that was accusatory or
16 pejorative in terms of terminology or accusatory
17 in any way. In other words, I mean, hard to
18 dispute that, looking at history, there has not
19 been a lack of trust between industry and public,
20 for a variety of reasons. And we just felt that
21 that statement needed to be made and validated.

22 And while I agree, I don't disagree

1 with your contention that VIS intended to be
2 forward-looking and to address those concerns,
3 for the people who have lived that history, a
4 little bit of validation in our minds,
5 particularly validation that was neutral and
6 equal in terms of judgment, would really benefit
7 us in the long run.

8 MEMBER WARNER: So, I guess the phrase
9 I'm concerned about, or I'm talking about, is
10 "Public wants industry to be held to highest
11 standards and accountable for incidents and
12 accidents."

13 I understand the lack of trust between
14 public and the industry. That, I think, is a key
15 subtopic that's in the paper right now. But I'm
16 wondering if that first phrase is relevant to
17 what the discussion of that section is about and
18 what the VIS is for.

19 MEMBER PERRY: So, the phrase you're
20 talking about is, "The public wants industry to
21 be held to the highest standards"?

22 MEMBER WARNER: Right.

1 MEMBER PERRY: So, would it make sense
2 to change that to "The public expects," or
3 something about the communication piece? Is that
4 what you're getting at, that it's about the
5 information?

6 MEMBER WARNER: That's why we need to
7 take that out and start with "Public wants honest
8 communication." I think that gets to the
9 communication piece of why we have a VIS. And
10 then, public wants to be involved in that whole
11 VIS part is what you guys have written
12 subsequently.

13 MEMBER PERRY: I see what you're saying.
14 Well, one of the reasons I think this is
15 important to have in there, that phrase -- and we
16 can rephrase it somehow -- is that it is the
17 concern, it's the trust issue; it's a
18 miscommunication, it's a communication issue.
19 It's also that the public does, I believe -- and
20 this is my perception perhaps -- but I believe
21 that this VIS, one of the roles it can play for
22 the industry is to help the public understand how

1 the standards -- how incidents and accidents are
2 handled.

3 And I think that -- and maybe this
4 isn't the right wording -- but that's the one of
5 the things that the public really wants. I don't
6 know if they want it, some of them, but if they
7 had it, I believe it might open up more
8 communication and more understanding. That's the
9 purpose of that phrase. So, maybe there's a
10 different way to say it.

11 MEMBER WARNER: Okay.

12 MEMBER PERRY: And so, maybe not to be
13 held to, but the public wants more information or
14 more transparency -- do we use that word again
15 somehow? --

16 MEMBER WARNER: Into the standards and
17 things like that, yes.

18 MEMBER PERRY: -- about standards and
19 accountability for accidents and incidents.

20 MEMBER WARNER: Yes.

21 MEMBER PERRY: Does that make sense?

22 MEMBER WARNER: Yes.

1 MEMBER COTE: I guess I would add to
2 that, as a very, very long-time operator, that
3 the reality is that the public does want the
4 industry to be held to the highest standards and
5 accountable for incidents. I mean, in my mind,
6 that is the world that we exist in today.

7 And certainly, there are companies
8 that have incidents. You know, there is very
9 little forgiveness in any circle, nor should
10 there be, based on all of that.

11 In my mind, this does acknowledge the
12 reality to the situation we find ourselves in.
13 And certainly, there may be differing views on
14 the fairness or equity of that. Those are the
15 customers' expectations. And so, simply to say
16 it I think merely memorializes reality.

17 MEMBER WARNER: So, I won't argue it
18 very much. But, again, my point is, the point of
19 the VIS is to bring information to people, to
20 bring transparency. It is not about creating
21 standards. It's not about accountability for
22 safety and incidents. And so, that's the point

1 I'm trying to make on this thing. But whatever
2 the Committee goes with, this is not a huge issue
3 for me.

4 MEMBER COTE: Understand, and I guess
5 would, just to close that out, I'm not sure -- I
6 would argue that it's very unlikely that if we
7 simply said, as an industry, that we would
8 communicate openly, but were not committed to the
9 highest standards in pipeline safety, frankly,
10 we'd be run out of town. So, it is more than
11 communication. It really is the delivery of the
12 product safety.

13 So, again, for all those reasons, I
14 believe that this is important.

15 Anything else?

16 MEMBER PERRY: Nothing else. I see
17 both sides. I think they're both important. And
18 so, I think it's the consensus of the Committee
19 about -- I think it would be really amazing if
20 there was a statement made such as it is there
21 now because it does recognize that this is an
22 essential thing for the public to gain trust and

1 to understand that the VIS is important. So, I
2 see both sides. I'm open to any kind of changes.
3 I'm also open to keeping it the same.

4 CHAIR BURMAN: My question really is,
5 with this, other than trying to establish a
6 general sense of addressing a concern on the
7 public trust, what is the focus that this has and
8 the connection to the VIS?

9 MEMBER PARKER: Right. Well, so this
10 section came from the barriers section. So, what
11 are the barriers correctly existing? And so,
12 this was something that we wanted to be
13 considered for addition to that. Because I
14 believe, from the public safety perspective, the
15 advocacy perspective, it is a barrier. And I
16 think the industry recognizes it as one, too, in
17 a different way.

18 So, we wanted to make sure that that
19 was in the barriers section, to why this is
20 important to have. I also think it does double
21 duty because it's also a place that says: we
22 recognize you, Public. We understand that there

1 are some issues that need to be dealt with, and
2 we want to work with you.

3 There's a lot of talk about good
4 faith, honest communication, which is a huge
5 thing, and will be a huge thing. So, that's the
6 purpose.

7 Leif says there's other areas in the
8 report that have references to honest
9 communication and such. And I don't know where
10 those are, but we agree to tweak that to make
11 sure it's in line with this in whatever way
12 necessary or to remove it.

13 So, does that answer your question?

14 CHAIR BURMAN: Yes. I just put in
15 sort of a word of caution in this, in that -- and
16 maybe I guess I have to give my own -- as I sit
17 as a state regulator who is someone who is
18 probably an outlier in my state because I feel
19 very strongly on fuel diversity being very
20 important. In our State, we've had success with
21 fuel diversity historically, and the need for the
22 continuation of that is very strong. That means,

1 for me, to have to effectively communicate. And
2 to do that as a regulator, it means that I must
3 effectively communicate with not just the public
4 and other regulators at the federal and state
5 level, but also with industry and utilities, in
6 particular.

7 By having that communication,
8 especially with industry, on issues, in
9 particular, gas, it does sometimes put me in an
10 uncomfortable position, and at times it can
11 subject me to scrutiny. And while I follow all
12 and go extremely aboveboard, you know, go
13 following all ethical guidelines and make sure
14 that I'm doing everything proper, for me, the
15 focus has always been on, in order to improve
16 utility service and safety, we have to facilitate
17 effective communication, and you have to do it
18 between the utility executives and the
19 Commissioners, right? And you have to do it with
20 due consideration for concerns with, due concern
21 for unfair access.

22 But I don't think that people fully

1 understand because there is a mindset that takes
2 place, if you're meeting alone with the utility,
3 therefore, you're doing something wrong, where I
4 look at it as the issue is effective
5 communication between the utility executives and
6 Commissioners for the purpose of enabling both
7 sides to share information in a timely and
8 informal basis, that it benefits consumers, or
9 can benefit consumers, and facilitate better
10 regulation.

11 The challenge is establishing those
12 guidelines that will help observe those proper
13 due process concerns and protect the rights of
14 others without disabling those effective informal
15 discussions.

16 So, when I hear in here this where it
17 says "honest communication," it seems to suggest
18 to me that there may be dishonest communication,
19 where it should be about effective communication.
20 So, I just don't want there to be a perception
21 that only the public can have honest
22 communication. And so, I just am sensitive to it

1 from my own perspective of only the public can
2 say this is honest; this is not honest.

3 And to the extent that when we're
4 looking at it the standup of the VIS is really
5 for it to work, it's a process for industry that
6 needs to be effectively working, not necessarily
7 for the regulators and not necessarily for the
8 public, and for all those involved in it. And
9 the accountability and the benefits need to be
10 there for the benefit of the consumers and
11 others, if that makes any sense.

12 So, I just want to make sure that
13 we're capturing that. Ultimately, it's not,
14 then, setting up some barrier unintended by us,
15 if that makes sense.

16 MEMBER PERRY: Yes, it does make
17 sense.

18 I believe that it is important to have
19 that phrase "honest communication" because of a
20 lot, for the right and wrong reasons, lack of
21 trust that has stemmed from miscommunication.
22 It's not always been dishonest, but it's been a

1 lack of or a not really fully communicating,
2 partially, or lack of -- you know, omission of
3 some facts that makes it seem like it's not
4 honest.

5 CHAIR BURMAN: Right.

6 MEMBER PERRY: So, I think it's
7 important to have that honesty in there for the
8 public. Though I hear you, what you're saying,
9 I want to make sure that this doesn't cause an
10 issue for state regulators or anybody like that,
11 either, because I understand that the state
12 regulators play a role in kind of -- it's a
13 public role they play.

14 So, I don't know if there is a need to
15 -- I don't know. I don't think there's a need to
16 incorporate that into this, but I think it's
17 important to have this conversation right now,
18 though, what that means for you all.

19 I also think effective communication
20 is different than honest communication, and I
21 think we need to differentiate it. If we want to
22 include effective and honest communication, I

1 would definitely agree to that.

2 And we went through this yesterday,
3 and we've been back and forth on this. There's
4 no disrespect intended by saying "honest
5 communication". It is what it is. It's not
6 intended to imply that there has been dishonest
7 communication. It's not intended to imply that
8 there's something with -- it's like about setting
9 expectations, right? It's about making sure that
10 we're elevating and not keeping it the same or
11 lowering it with this effort. And I want to make
12 that really clear to the public. And I don't
13 think without these kind of words it will be.

14 I mean, there's other parts in this
15 report that will probably alienate some folks,
16 but as long as there are some anchors that show
17 there was good faith, there was a real interest
18 in continual improvements, and sharing lessons
19 learned as much as possible, and an explanation
20 of why the protections are needed, the non-
21 punitive nature of things, I think that this will
22 be palatable. I'm not saying it will be accepted

1 universally, but it would definitely be more
2 palatable.

3 CHAIR BURMAN: Okay. We can accept
4 that.

5 MEMBER PERRY: Yes. But thank you for
6 your sharing.

7 CHAIR BURMAN: Mark? And then, Max.
8 And then, Leif.

9 MEMBER HERETH: You guys go ahead.

10 MR. KIEBA: Yes, just two things.
11 One, I don't have as much heartburn on the honest
12 communication piece. I think someone has said it
13 well. What I hear, too, from the public is, if
14 you're not sharing some facts, in their opinion,
15 that's not being honest. You're not sharing all
16 the facts behind it. So, I can certainly see
17 that as part of it.

18 And held to the highest standard, I
19 also support that. Because, then, you ask, how
20 does the VIS tie into it? I would argue we're
21 rolling in SMS. We're not just talking about the
22 reportable incident. We're not just talking

1 about the minimum safety standards. We are
2 really talking about pushing the envelope for
3 continuous process improvement, going towards
4 that goal of zero. And to get there, we really
5 look at those non-reportables, the close calls.
6 That's how I think it ties into it. So, to me,
7 that's held to a higher standard, is getting to
8 the non-reportables and those aspects.

9 CHAIR BURMAN: Thank you.

10 Leif?

11 MEMBER JENSEN: Thank you. Leif
12 Jensen with Sunoco Pipeline.

13 To address your comments with respect
14 to the report, when I first received the report
15 and started reading it, I saw the references to
16 honest communication, and then, opened up the
17 navigation feature and did a CONTROL-F to find
18 out where else it was referenced. And at least
19 eight times the inference of honest
20 communication, and to echo what the Chairperson
21 said, implying that there's dishonest
22 communication, it exists about eight times, if

1 not more. And it took me back because it wasn't
2 until the prior meeting did we actually bring up
3 this notion of honest communication in lieu of
4 being transparent. So, that's the one aspect.

5 My other comment is I did read your
6 paper that you submitted to everyone last night.
7 And when you look at page 3, all your various
8 references, it's a very large gamut from
9 production to construction, fracking incidents,
10 risk management. There's some distribution
11 incidents and pipeline incidents from across the
12 world, right?

13 And so, my perspective is that the VIS
14 isn't going to be able to tackle all of those
15 issues, right? The VIS is, when you look at the
16 mandate, it's predominantly focused on
17 collaboration between an ILI vendor and operator,
18 right, predominantly in the transmission and
19 liquid pipeline world.

20 We decided to add the scope to include
21 gas distribution. That makes all the sense in
22 the world, given the incident rate. But I view

1 that as more of an O&M-type function, not
2 construction, not production. It's O&M, right?
3 It's maintenance and in some realm construction.

4 So, I struggle to find the context of
5 dishonest or honest communication as it relates
6 to that realm. And I'll conclude by saying I'm
7 just a little concerned that, if we don't soften
8 the tone in the report, it is going to be a
9 deterrent for volunteers.

10 MEMBER PERRY: Yes, I understand what
11 you're saying. One of the reasons why I included
12 all those references is because -- and if you
13 read the part about what miscommunication on
14 these issues has done, the public does not have
15 the -- people in the public are getting more
16 sophisticated in understanding. Some of those
17 who want to educate themselves, really educate
18 themselves to the facts, are getting more
19 understanding about how all of the pipeline
20 systems work, and then, how that is or is not
21 related to new construction or production
22 facilities. But most people in the public aren't

1 getting sophisticated in that, and they confuse
2 all of it. And that's what you're dealing with
3 when you talk to the public.

4 I know that the industry understands
5 where they're working at a particular time, and
6 even some companies are working just in one area.
7 But, to the public, it's all the same. And so,
8 that has somewhat stemmed from a lack of people
9 wanting to find information, the public wanting
10 to find new information, and being swayed by the
11 media, by other public advocates that are more
12 activist-oriented and very much fearmongering.

13 And we keep saying this.
14 Unfortunately, in public safety coalitions, some
15 of our biggest kind of allies at first have
16 become -- they don't like what we do because we
17 talk with the industry and we want to build trust
18 and relationships, and we want to have these
19 conversations that we can pass along to the
20 public that this is not one monolith industry,
21 because they see it all as the same.

22 And so, I think what is important to

1 recognize, when the public -- so, this is the
2 hard part, right, because this report, it is for
3 different audiences. It needs to be, I believe.
4 That's my belief. And if you're talking about
5 the public audience and the congressional
6 audience, so the Members of Congress now, you
7 really need to think about that because they're
8 going to see that as, oh, just another industry
9 regulation document, a regulatory -- you know,
10 it's created within the regulatory agency, that
11 they're just trying to get away with things.
12 That's what they're going to see it as, unless
13 there's -- and I know it's not. I know it's not
14 that, sitting here for two years. I know it's
15 not that, and everyone on our team knows that.

16 We need to figure out how to
17 communicate that to the public in a way that the
18 industry is saying, yes, we recognize the public
19 doesn't understand all these issues. But you
20 can't say it that way, right? We've talked about
21 this. It's just as bad to talk about how the
22 public doesn't understand it. "Oh, you'll never

1 understand it" is just as bad as saying the
2 industry is dishonest. It's an offensive thing
3 where people shut off and they won't listen
4 anymore.

5 So, trying to get past that is the
6 point. And I want to make sure that we go
7 through the document and we find all those places
8 that you're worried about, and we see how we can
9 either remove it -- it might not be necessary --
10 or change the wording. Hopefully, that will
11 help.

12 CHAIR BURMAN: Well, a couple of
13 things. In a sense, I thought this language was
14 to, then, replace the tone in the other areas.

15 MEMBER PERRY: Yes, it is.

16 CHAIR BURMAN: But, also, this
17 language really focuses on the public versus the
18 industry itself also wants to be held to the
19 highest standards. And I don't think that that
20 -- I think that the industry and the folks in
21 this room would say that they also want to be
22 held to the highest standards.

1 So, I think the wording in the report
2 needs to be clear that this Committee, this
3 Working Group, sees that. So, that it's not just
4 that the public wants the industry, because,
5 otherwise, implicitly it says the industry
6 doesn't want that.

7 MEMBER PERRY: Well, I think
8 throughout the report there's a lot of
9 conversation about how the industry does want it.

10 CHAIR BURMAN: Right.

11 MEMBER PARKER: Yes.

12 CHAIR BURMAN: But I don't want the
13 takeaway in this section to -- I just want to
14 make sure that we're clear that it's succinct in
15 that maybe it could be clear that there is public
16 distrust, that the industry doesn't want that,
17 but, in fact, this group -- maybe we can word it
18 in a way that's more clear.

19 Mark? And then, Dan.

20 MEMBER HERETH: Mark Hereth.

21 I'm generally comfortable with this
22 wording, and I think it's an improvement from

1 where we were. I guess in the spirit of where we
2 were yesterday, and trying to be conscious of our
3 time today, I'm comfortable leaving this one with
4 the Chairman and the control of the pen, drawing
5 upon the resources that helped to develop this.
6 Because I think that the points that the Chairman
7 is making, that Leif was making, are important.
8 I certainly recognize your concerns.

9 I struggle with "honest," but if
10 that's where we want to be as a group, I'm good.
11 I think we're much better off with open and
12 transparent. But, if that's where we need to
13 be -- but I'm comfortable with you, Madam
14 Chairwoman, taking the control and working with
15 these folks to resolve this, because I don't know
16 that we're going to productively move it a lot
17 further than where we are right now.

18 CHAIR BURMAN: Okay. Dan?

19 MEMBER COTE: Just one addition to the
20 discussion. In my mind, this sentence or this
21 short paragraph is contextual to where we really
22 need to go with VIS.

1 The entire point of VIS, and all the
2 work we've done over the last two years, in my
3 view, is to create a structure that opens the
4 door to all of this, that creates a free flow of
5 information, both across the industry to improve
6 pipeline safety and to stakeholders who can
7 recognize that improvement and understand how
8 improvements are being made.

9 I mean, my takeaway as a result of all
10 this might be there simply is one more sentence
11 that follows that says something like, "And we
12 see VIS to be the vehicle for the industry and
13 public to move forward in the collaborative way
14 that's described as being necessary above,"
15 something like that. I mean, that ties it all
16 together.

17 CHAIR BURMAN: Dr. Murray?

18 DR. MURRAY: So, my two cents' worth
19 is, coming on a different path and looking at the
20 work that PHMSA does across the country with
21 public awareness and public engagement-type
22 activities, it is not uncommon for us to hear

1 from various stakeholders, one of which is the
2 public who talks in many different forms, many
3 different scenarios, about wanting to have more
4 engagement, more honest communication, more
5 effective communication, all of the above in
6 different settings at different times.

7 When I first looked at this statement,
8 what struck me in the third sentence was "The
9 public wants honest communication WITH" -- in
10 caps -- "industry." Not "from industry". Not
11 "by industry". But "with," which in other
12 settings I've heard it referred to as more of a
13 two-way communication. And I don't know if I'm
14 looking at the right version of it or not.

15 MEMBER COTE: The "with" was designed
16 to show interactivity.

17 DR. MURRAY: Right.

18 MEMBER COTE: In other words, equality
19 on both sides, "with". So, not "by". The word
20 that was replaced was "by". And the only reason
21 that you see this in caps is we were trying to
22 edit in a way that, and communicate to everyone,

1 those were the changes were made. And because
2 I'm on an iPad instead of a PC, I couldn't
3 highlight and do some of the other bells and
4 whistles. None of that should be capped. That
5 should all be lowercase. But I was trying to
6 communicate the changes we were making.

7 DR. MURRAY: And I think that's key.
8 And I think the key point that speaks to what I'm
9 saying is the interactive nature.

10 MEMBER COTE: Exactly.

11 DR. MURRAY: The "with" implies,
12 whether it's lowercased or not, what I took away
13 was that it appeared to be interactive in nature.

14 MEMBER COTE: Exactly. And that was
15 the intent.

16 DR. MURRAY: It moves the group closer
17 to what the conversation is or not, but that
18 "with" is very powerful versus a "by" or
19 "from" --

20 MEMBER COTE: Exactly.

21 DR. MURRAY: -- sort of a statement
22 there. I think that helps to talk about that

1 two-way engagement sort of a --

2 MEMBER COTE: Thank you.

3 And for the record, the caps were not
4 meant to be any sort of editorial. It was simply
5 a way to indicate changes that were made to the
6 document. And so, obviously, the final version
7 should have no caps other than those
8 appropriately at the beginning of sentences.

9 CHAIR BURMAN: Okay. Great. and so,
10 my takeaway -- and normally, as you might have
11 gathered, I'm relatively quiet on many things.
12 And I sensed from this that this was an issue
13 that might have some controversy. So, to the
14 extent that I felt it's important that we fleshed
15 out, and that we continue to make sure that we
16 fine-tune language, because I do think that we
17 can get there. And I do agree that this will be
18 something that we can work through. And it's not
19 about striking the language. It's about working
20 and figuring it out further.

21 So, I like the idea of now continuing
22 that dialog, putting aside, and we can vote to do

1 that with that caveat. And I do believe Dr.
2 Perry and Dan can help with that. So, we'll get
3 there.

4 And that, also, then, means looking
5 throughout the whole document for that tone,
6 understanding that, for me, it is about
7 addressing what the perceptions are on all sides
8 and needing to understand those, those barriers,
9 and also helping to bring people together,
10 because it is a challenge.

11 MEMBER PERRY: I just wanted to add
12 that I wanted to thank Dan and Wen very much for
13 working through this with me. So, thank you all.

14 CHAIR BURMAN: Okay. Wonderful.

15 Okay. And we can make a global note
16 at the end on all that and continue that on the
17 punch list.

18 So now, we're going to go back to the
19 different updates and the homework from
20 Subcommittees. I do think that it might be
21 helpful if we just go through the Subcommittees,
22 and then, for those who have no homework

1 assignments or those who do, we can chat, do it
2 from that perspective.

3 We'll go down the list. We'll go to
4 Mission and Objectives. So, Dan, did you have
5 any homework assignments other than that one?

6 MEMBER COTE: No, ma'am.

7 CHAIR BURMAN: Okay. Great.

8 Process Sharing, Mark?

9 MEMBER HERETH: Yes, we had the
10 homework assignment of resolving some
11 recommendations that appeared, duplicative
12 recommendations, essentially, that appeared in
13 both the Technology and the Process Sharing
14 section.

15 We had a meeting after our main
16 Committee meeting occurred yesterday, and we
17 agreed to adopt the process sharing
18 recommendations that were common between the two
19 sections and place those into Process Sharing.

20 Any different thoughts from Technology
21 members?

22 (No response.)

1 CHAIR BURMAN: Okay.

2 MEMBER BROWN: Mark, sorry, we might
3 have added one as well. As you adopt API 1163,
4 we had originally also talked about adopting or
5 conforming to additional standards and
6 recommended practices. So, we might, if you're
7 going to adopt API 1163, maybe we put that just
8 underneath that. So, there was one that we
9 would place at least close by that 1163
10 recommendation.

11 MEMBER HERETH: And that was our P-5,
12 I believe, correct?

13 MEMBER BROWN: Oh, I'm sorry. Yes,
14 it's P-4. So, that was duplicative as well. So,
15 I think we agreed to put that in the process
16 section, right?

17 MEMBER HERETH: Yes.

18 MEMBER BROWN: Because you guys
19 brought three back into the technology section
20 yesterday.

21 CHAIR BURMAN: We just have a process
22 question.

1 DR. MURRAY: Is there a document you
2 guys are referencing?

3 MEMBER HERETH: Yes.

4 DR. MURRAY: Is it something you're
5 going to display or --

6 MEMBER HERETH: Yes. So, if you look
7 at the draft, the pre-decisional draft from
8 12/12, what we're suggesting is -- let me recap
9 what we did yesterday as well -- is that we're
10 going to get rid of Recommendation P-1. And it's
11 that community of practice concept. We're taking
12 and building that language into the preamble, and
13 we're getting rid of the use of the word
14 "community of practice" because of its potential
15 misunderstanding. We're going to go to an honest
16 approach.

17 (Laughter.)

18 MEMBER HERETH: That's a joke. We're
19 going to go an approach which describes the
20 opportunities we have with operators, service
21 providers, regulators, representatives of the
22 public, the universities, et cetera, represented

1 labor as well. And so, it will describe that in
2 -- it's actually in the introduction, and not use
3 this P-1 recommendation. Again, that's on page
4 90 of that draft.

5 And then, the idea is to take the
6 recommendations -- let's see -- P-3, 4, 5, 6, 8,
7 7, 8, and 9, and keep those as is in that draft,
8 and take those comparable ones out of the
9 technology section.

10 DR. MURRAY: Okay. So, the document
11 that Bryce sent us this morning with the
12 technology changes, is that the best reference to
13 pull up that reflects that?

14 MEMBER HERETH: If you pulled those
15 out. If you did, then it is. That is the best
16 reference.

17 DR. MURRAY: So, if you go down to the
18 "T" section -- let's see. Okay. So, that's
19 where it describes where it will remain in P-4,
20 for example, with P-5, P-6?

21 MEMBER HERETH: Yes. Yes.

22 DR. MURRAY: Okay. Excellent.

1 MEMBER HERETH: Yes, ma'am.

2 DR. MURRAY: So, those will come out
3 of here?

4 MEMBER JENSEN: Yes, ma'am. Out of
5 the "T" section, yes.

6 MEMBER WARNER: Which one moved up?
7 Show that one there.

8 MEMBER BROWN: That's T-8. So, Mark,
9 this one -- sorry -- T-8 is the additional
10 conformance to additional industry
11 recommendations, recommended practices, the DAs
12 and the other API referenced practices.

13 MEMBER HERETH: Yes, that stays in
14 technology, correct?

15 MEMBER BROWN: Well, what we were
16 thinking is, why not shift it, at least
17 incorporate it directly underneath the
18 conformance to API 1163, in addition, to cover
19 what Dan was mentioning over time. There's other
20 standards and recommended practices out there
21 that capture other types of data. And why not
22 bring that in adjacent to one another?

1 MEMBER HERETH: Yes.

2 MEMBER BROWN: That's fine, yes.

3 MEMBER HERETH: That makes sense.

4 MEMBER BROWN: So, that will be one --

5 MEMBER HERETH: Whereas, T-9 you would

6 retain here in the technology section?

7 MEMBER BROWN: Yes, sir.

8 MEMBER HERETH: Okay. That makes

9 sense. That makes perfect sense.

10 DR. MURRAY: So, for T-8, it's what we

11 see here that is going to move from here to the

12 process sharing? That's a new recommendation for

13 process sharing? Okay, got it.

14 MEMBER BROWN: It's more of just a

15 relocation, for the record close to theirs.

16 MEMBER HERETH: And I believe that

17 addresses all the homework assignments that we

18 had between process sharing and technology.

19 CHAIR BURMAN: Okay. Does anyone have

20 any questions or comments? At the table?

21 On the phone? In the audience?

22 And, Christie?

1 DR. MURRAY: Just a clarifying
2 question. The recommendations that you
3 introduced yesterday that were new for
4 technology, are those depicted in here as new
5 still?

6 MEMBER BROWN: Yes. Yes, ma'am.

7 DR. MURRAY: Okay. All right.

8 MEMBER BROWN: I can speak to those
9 real quickly when it comes to my turn.

10 DR. MURRAY: Okay. Okay. Got it.

11 CHAIR BURMAN: Okay. And in the
12 audience?

13 And I failed to ask if anyone had any
14 questions in the audience from the conversation
15 we had before.

16 Okay. Hearing none -- and, Alan,
17 thank you for joining us.

18 MEMBER MAYBERRY: It's my pleasure,
19 seriously.

20 CHAIR BURMAN: Okay. So now, we're
21 going to go on with that. And again, I don't
22 think we need to vote on anything right now, but

1 globally at the end.

2 So, we've the Mission and Objectives,
3 Process Sharing. Best Practices?

4 MEMBER JENSEN: Okay. Christie, I did
5 email you that document before. So, if you could
6 bring up the email that I had sent?

7 DR. MURRAY: It's the one that says
8 "CAT" and "Best Practices".

9 MEMBER JENSEN: Let's scroll down to
10 B-1, if you could.

11 So, best practice homework assignment
12 was to cross-reference the recommendations with
13 respect to the elements of Section 10 in the
14 legislation, as well as the scope and background
15 sections of the written report.

16 So, when you look at the first one,
17 B-1 -- I can't read that up there -- but the
18 theme here is that the voluntary information-
19 sharing system shouldn't just be about data. We
20 should expand it beyond and include all aspects
21 of an integrity management program.

22 And there is a direct correlation of

1 that concept to pipeline safety management
2 system, specifically the risk management element.
3 And there's also a direct correlation to the
4 mandate in the charter, Part 4B. And I'll just
5 go ahead and read it because it's not up here.

6 But it's, "Ways to encourage the
7 exchange of pipeline inspection information and
8 the development of advanced pipeline inspection
9 technologies and enhanced risk analysis."
10 Emphasis on that last part, "risk analysis".

11 When you think about an IMP as a
12 whole, it's identifying the threats, selecting
13 the appropriate tool, determining how we're going
14 to go about remediating the features that are
15 detected by the tool, validating the accuracy of
16 that tool, and then, calculating in a measurable
17 way the residual risk that remains on that
18 pipeline when we put it back into service or
19 remove any pressure restrictions. And then,
20 lastly, using all that data to determine an
21 inspection frequency, right?

22 So, that is a very brief way of

1 describing the overall IMP process as opposed to
2 just raw data analysis. In my mind, that is the
3 connection to both the mandate and the SMS. And
4 so, I think BP-1 or B-1 needs to exist.

5 Now, having said all that, a lot of
6 the content that was in the best practice
7 recommendation is embedded in the background
8 information and the scope portion of the written
9 document, the 163-page document, or whatever it
10 is.

11 And I think it's important to note
12 that, as the DIS Working Group has evolved over
13 the last two years, we first had best practice
14 first. And that's because our charter was to
15 leverage all the existing industries and systems
16 that were out there, understand what aspects that
17 they had, in an effort to fast-forward this work,
18 so that we wouldn't take 10 or 15 years, like the
19 FAA had to struggle.

20 So, one of the comments yesterday was,
21 now the best practices at the end of all the
22 recommendations, and is it redundant with the

1 content that is within the content of the report?
2 Before I go through the other ones, I think it's
3 important that we raise these best practice
4 recommendations, if not within the body of the
5 report and the scope, but at least to the top of
6 the recommendations page, where we actually list
7 out the recommendations.

8 That's B-1. I'll pause before I go
9 into B-2 for questions/comments. There's really
10 no information than what we had described before.
11 Just reiterating the importance to look at the
12 whole IMP system, not just raw data.

13 Moving on --

14 CHAIR BURMAN: I'm sorry. Mike?

15 MEMBER LAMONT: Mike Lamont, TRC.

16 I support that. I think that makes a
17 lot of sense.

18 CHAIR BURMAN: Anyone on the phone?
19 In the audience?

20 MEMBER MacNEILL: I agree with Leif.

21 MEMBER JENSEN: Okay. Moving on to
22 B-2, if you recall yesterday, we voted that there

1 was no need for us to have B-2 in place. What I
2 have highlighted in yellow are my comments that I
3 made to myself last night as I was referencing
4 the report. And I think it's just important to
5 reiterate here that this content is riddled
6 throughout the background of the scope section.
7 So, the homework assignment is, is this
8 adequately captured within the content of the
9 report? The answer is yes. It's very thoroughly
10 a recommendation. So, I concur with our vote
11 yesterday that we could omit it.

12 Any comments?

13 CHAIR BURMAN: Christie?

14 DR. MURRAY: Just to clarify, leaving
15 it here means you don't -- it's already in other
16 sections? So, there's no need to take action on
17 it any further than removal?

18 MEMBER JENSEN: That's correct.

19 That's correct.

20 DR. MURRAY: Okay.

21 CHAIR BURMAN: Anyone on the phone?

22 In the audience? Okay.

1 MEMBER JENSEN: B-3 really talks about
2 complementing, building upon, or leveraging the
3 existing sharing processes that exist today. And
4 I think it's important that we keep this in
5 context as a recommendation because there's
6 sharing venues that exist peer-to-peer, operator-
7 to-operator. There's sharing systems that exist
8 within all the trade associations. They have
9 venues that operators come in and participate.

10 And there's a common theme that we've
11 been discussing that we could articulate a little
12 bit more. It is PHMSA or state regulator to
13 operators. And I emphasize plural and
14 "operators".

15 If you recall some of our
16 conversations earlier, it's very common for a
17 regulator to have conversation with a particular
18 operator in their findings on an enforcement
19 action, but it's not likely that PHMSA or the
20 regulator will cascade that information out to
21 several operators. Although, having said that,
22 there are the advisory bulletins that get

1 published and things of that nature. So, there's
2 an opportunity here to leverage that incident
3 history in the library of PHMSA and state
4 regulators to cascade that out. So, in my mind,
5 B-3 should remain as a recommendation.

6 CHAIR BURMAN: Max?

7 MR. KIEBA: Yes, and I'll just add a
8 question I think yesterday, possibly, from Mark
9 was, where is the VIS hub mentioned anywhere
10 else? And in the standalone document, we
11 originally said that that's where we start
12 talking of the hub. So, just a point of
13 information. It is still covered within the
14 document, but that was tied to this
15 recommendation.

16 CHAIR BURMAN: Anyone on the phone?
17 In the audience?

18 (No response.)

19 MEMBER JENSEN: Okay. Strolling down
20 to B-4, the one thing I did want to emphasize --
21 a little bit further down, if you could, what's
22 highlighted there -- no change other than the

1 fact that I highlighted this aspect and put a
2 parentheses in there because it does make direct
3 reference to what's in the mandate, right, and
4 the need for security of data and de-
5 identification of that data to provide anonymity.

6 Now that concept is captured
7 throughout the entire report. So, the necessity
8 of this supporting recommendation probably isn't
9 that important. But what I also added there, if
10 you could scroll down a little bit, so you can
11 show it? We're not down, and minimize it a
12 little bit to show all of the five sub-bullet
13 items. Those were not there yesterday.

14 And so, that last sentence in the
15 recommendation reads, "Elements found in various
16 other businesses or entities including, but not
17 limited to," and then, all of these five
18 different entities. So, I think it's important,
19 to add context to the recommendation, that we
20 reinsert those entities.

21 CHAIR BURMAN: Max?

22 MR. KIEBA: Yes, and I don't know if

1 that's a process thing because the Committee
2 yesterday voted to stop it after, I think,
3 "entities". But I did look back, and originally,
4 that was the recommendation. I think it's key
5 for those five bullets to be in there because it
6 does highlight all the things this Committee has
7 done already with governance and everything else.
8 And particularly, the mandated item was security
9 of data and de-identified.

10 CHAIR BURMAN: Any comments? On the
11 phone? Mark?

12 MEMBER HERETH: So, a process question
13 then. So, when we vote on this in the end, we'll
14 be voting, for example, for the inclusion of
15 those bullets, right?

16 CHAIR BURMAN: Correct.

17 MEMBER HERETH: Okay. Thank you.

18 CHAIR BURMAN: Okay. Any comments in
19 the audience?

20 (No response.)

21 CHAIR BURMAN: Okay.

22 MEMBER JENSEN: Okay. Moving,

1 finally, on to B-5, yesterday we --

2 CHAIR BURMAN: And I'm just taking the
3 silence to mean people are tired.

4 (Laughter.)

5 MEMBER JENSEN: Or they're
6 multitasking.

7 With respect to B-5, we did opt to
8 keep this yesterday, but including the additional
9 elements above, it is redundant, at least in my
10 mind, with that last item that's on the top of
11 the page there, "communication of results and
12 performance measures". And given the context of
13 conversation we just had today as it relates to
14 honest communication, transparent communication,
15 supporting Recommendation B-5, in my mind, is
16 redundant. We can keep it. But, if we do end up
17 wanting to filter out some of the noise or
18 redundant aspects in the report, this might be
19 one that we can omit.

20 CHAIR BURMAN: My focus is right now
21 having a note that it may come out, but when we
22 look at the final version, again, knowing that

1 we're going to give me, as the Chair, the power
2 of the pen. And I brought a pen, just so you
3 know, here.

4 MEMBER JENSEN: Ten pens?

5 CHAIR BURMAN: Ten pens. But it is
6 sort of a note really to myself, and to the
7 technical writers, to help make sure that we're
8 not losing what need to stay in as a best
9 practice. And so, whether or not that gets
10 there, keeping in mind, also, that we also have
11 this on the punch list, making sure that we
12 facilitate some of those opportunities where we
13 talk about the regulated pipeline industry and
14 others that were consistent throughout --

15 MEMBER JENSEN: Right.

16 CHAIR BURMAN: -- that we're
17 explaining what those definitions are. And there
18 may be other things that we're not seeing.

19 MEMBER JENSEN: And I would add, just
20 to echo exactly what you just said, in the spirit
21 of how we formed the subcommittees within VIS,
22 many of the subcommittees went down similar

1 paths. And when you read the report, there is
2 several areas of redundancy and repetitiveness.
3 So, there may be an opportunity to streamline
4 some of that in the same context as what we just
5 discussed.

6 CHAIR BURMAN: And that gets to Mark
7 yesterday said at one point that the subcommittee
8 reports eventually merge into the Committee's and
9 Working Groups' ownership of it. So, to the
10 extent that now we're looking at it as one whole,
11 and where does it fit, we'll be looking at that.

12 Okay. Mark, did you have a comment?
13 Oh, Max? I'm sorry.

14 MR. KIEBA: Yes, and I looked back on
15 the notes on this one. We said it's similar to,
16 well, at the time, it was Process Sharing 12.
17 So, I believe there's probably something that
18 Mark has that would cover it if we decided to
19 take it out.

20 CHAIR BURMAN: Okay. Great. Thank
21 you.

22 MR. KIEBA: Yes.

1 CHAIR BURMAN: And we're noting that
2 in there?

3 MR. KIEBA: PS-12 is the --

4 CHAIR BURMAN: Thank you.

5 MR. KIEBA: At least at the time, as
6 of October. So, I know some of the
7 recommendations have changed around, but --

8 CHAIR BURMAN: Okay. Any comments on
9 the phone? In the audience?

10 MR. SAWHILL: Steven Sawhill from DNV
11 GL.

12 I don't think you should be too afraid
13 of having some repetition of these key concepts
14 sprinkled out through your report, because it
15 shows people who are -- we don't tend to read
16 things in a linear fashion. And I think it shows
17 the readers that these are important concepts
18 that are influencing all of the subcommittees,
19 and it helps to reinforce your message. So,
20 although it is a long report, I don't know that
21 editing those in place necessarily is to your
22 advantage. It helps to communicate to the public

1 that you're thinking about it in more places than
2 just one.

3 CHAIR BURMAN: Thank you for that
4 comment because that's helpful.

5 Any other comments?

6 (No response.)

7 MEMBER JENSEN: So, I believe that
8 concludes the homework assignment for best
9 practice.

10 CHAIR BURMAN: Okay. Great. Thank
11 you very much.

12 Any other comments on that? On the
13 phone? In the audience?

14 (No response.)

15 CHAIR BURMAN: Okay. And, again, I
16 think we can do a global on it at the end.

17 Now we go to Technology. Bryce?

18 MEMBER BROWN: Okay. You can pull up
19 that previous document that we were looking at
20 for technology.

21 DR. MURRAY: The "T" section?

22 MEMBER BROWN: Yes. Yes, but it's the

1 "T" section, starting with T-9.

2 Okay. So, to follow on Mark's
3 comments to the process share recommendations,
4 those that he mentioned, they will reside as
5 written accordingly. So, therefore, we pick up
6 at T-9. These that we look at right now are
7 those we mentioned yesterday with some suggested
8 edits, based on discussion. So, we'll look at
9 those at a high level.

10 So, T-9, "The VIS should consider
11 design and implementation requirements for input
12 validation for system quality and consistency."
13 So, we reviewed this yesterday. As it read
14 yesterday, it just started with "Consider design
15 and implementation". So, that is the minor edit
16 to T-9.

17 Any questions?

18 (No response.)

19 CHAIR BURMAN: Okay.

20 CHAIR BURMAN: On the phone? In the
21 audience?

22 (No response.)

1 MEMBER BROWN: Moving forward to the
2 next, so we mentioned yesterday again the
3 incorporation of what we refer to as some new
4 supporting recommendations. However, they were
5 from the original Draft 2. They just got lost
6 into bolded text, as opposed to denoted with
7 supporting recommendation.

8 So, this first one, once again, is,
9 "The VIS should consider the qualitative and
10 quantitative inputs needed to support meaningful
11 analysis."

12 We had this previously in Draft 2, and
13 that the VIS should define the inputs. And I
14 bring this up real quick, in that, Mark, you do
15 have a process P-2 that talks about defining the
16 types and what information ought to be shared to
17 enhance integrity management, including integrity
18 assessments and risk management. So, there is
19 some similarity there, and I want to make sure
20 that we understand that as the main Committee.

21 Through our discussions, we talk about
22 at which point we start to share data, low-

1 hanging fruit type of data. There is that data
2 that exists that we can start to share, and
3 there's going to be an evolution of that data
4 sharing over time. So, basic data that we have
5 available today, as we start to get better at
6 what we do to capture data with higher-resolution
7 equipment, assessments, what have you, better
8 understandings, that will evolve into something,
9 of course, what we hope to be a better approach.

10 We talked about it here a little bit
11 around the how, and we brought that in on the
12 "how" side because, if we look at process share
13 and best practice, architecture IT is going to
14 need to understand what that looks like from the
15 "how" and to incorporate, of course, to a certain
16 extent, the structure, et cetera. So, we felt it
17 important to have it here, and I appreciate the
18 comment from the audience in that it's okay to
19 have some duplicative items. But I bring that to
20 the attention, that we do have it basically kind
21 of twice.

22 MEMBER HERETH: This is Mark Hereth.

1 Can I just take the opportunity to
2 take us back to how we agreed to cover things in
3 a document, which is what you're really referring
4 to. As a check when we look at this in the end,
5 when you have the pen or your pens, in process
6 sharing we try to focus on what is going to be
7 shared, and in technology we try to focus on how
8 it's going to be shared. And drawing that
9 distinction I think will help as a check on our
10 recommendations.

11 MEMBER WARNER: Mark, is it fair to
12 say that your recommendations focus on kind of
13 the outputs, what is going to be learned or what
14 is going to come out of it; whereas, this is more
15 focused on the inputs and how we're going to take
16 that information and create those outputs?

17 MEMBER HERETH: I think that's
18 generally a way to describe that. I suspect
19 ours, the Process Sharing Subcommittee's -- it's
20 not mine -- the Process Sharing Subcommittee's
21 probably relate to inputs and outputs, and yours
22 is really on how it gets done, right? Is that

1 what -- I think that's what you're saying? But
2 we don't need to debate it a lot. I'm
3 comfortable with your description.

4 Very good question.

5 MEMBER JONES: I just have, and maybe
6 I'm wordsmithing -- oh, sorry. Walter Jones.
7 Maybe I'm wordsmithing, but where you have the
8 VIS -- and I wasn't here yesterday; I apologize
9 -- where you have the VIS hub, wouldn't it maybe
10 be better just to say, "tentatively called the
11 VIS hub" or "here referenced as the VIS hub," so
12 that we can give it power?

13 MEMBER BROWN: Where are you?

14 MEMBER JONES: Recommendation "T"-
15 something, original draft, original from Draft 2,
16 "The VIS Working Group recommends the development
17 and implementation and operation of a technology
18 platform (VIS hub)". And I'm suggesting we say,
19 "tentatively called the VIS hub" or "here
20 referenced as the VIS hub that is secure," so
21 that we give it status, you know, give it agency.

22 MEMBER BROWN: Yes, I think we're

1 going to come to that one yet.

2 MEMBER JONES: Oh, you haven't gotten
3 there? Okay.

4 MEMBER BROWN: We've not gotten there
5 yet.

6 MEMBER JONES: Oh, yes.

7 MEMBER BROWN: A good observation.
8 Hold that thought.

9 MEMBER JONES: Okay.

10 MEMBER BROWN: We'll come back to
11 that.

12 So, back to the one --

13 CHAIR BURMAN: Michael?

14 MEMBER BROWN: Yes.

15 MEMBER BELLAMY: Yes, Michael Bellamy,
16 Baker Hughes.

17 Bryce, if I may, I wonder if this is
18 the right point to introduce that notion you were
19 talking about this morning of what comes first.
20 Which challenge is it logical to tackle using the
21 VIS first? What is the next one? Because there
22 is a certain -- there's something missing, I

1 think, in the report currently, which is, what's
2 that first step? How do you get started?

3 Because there's lots of ambitious,
4 quite rightly ambitious, stuff that is discussed
5 in the report. And I know that Mark has produced
6 a Gantt chart which could help illuminate this.
7 Now whether we take that right now in the
8 conversation, because it does pertain directly to
9 this question of both T-2 and also T-whatever-it-
10 was. I'm losing track here a little bit.

11 CHAIR BURMAN: Mark, do you want to
12 weigh-in here?

13 MEMBER HERETH: I was simply going to
14 say that I think your intention is to cover that
15 Gantt chart later in the meeting, right?

16 CHAIR BURMAN: Right, but I wonder,
17 you know, if we are going to cover it --

18 MEMBER HERETH: Yes.

19 CHAIR BURMAN: -- we can cover it
20 right after this, so that we don't lose the --

21 MEMBER BELLAMY: Yes, later's fine.

22 I just wanted to make that link for everybody --

1 CHAIR BURMAN: Right.

2 MEMBER HERETH: Yes.

3 MEMBER BELLAMY: -- because I think
4 that there is a need.

5 CHAIR BURMAN: Right.

6 MEMBER BELLAMY: I think there's a
7 need --

8 CHAIR BURMAN: I think you're
9 absolutely right.

10 MEMBER BELLAMY: -- to put some
11 sequencing into it.

12 CHAIR BURMAN: So, I think right after
13 we finish this, we'll go right to the Gantt chart
14 because I think that will help flesh it out.

15 MEMBER BROWN: Okay. So any
16 questions?

17 CHAIR BURMAN: Does anybody have any
18 questions on the phone?

19 Michael, you're still -- I'm sorry.

20 MEMBER BELLAMY: Oh.

21 CHAIR BURMAN: On the phone? In the
22 audience?

1 (No response.)

2 CHAIR BURMAN: Okay.

3 MEMBER BROWN: We're good.

4 So, moving down to the one that's
5 shown in the middle of the screen there, we
6 talked about this one yesterday. And it said
7 previously, basically, the VIS should incorporate
8 the appropriate standards development
9 organization.

10 And Mark brought up the point of
11 "incorporation" doesn't really sound correct;
12 rather, maybe "charge". And so, we took that and
13 put that there, that "The VIS should charge the
14 appropriate standards development organization
15 since its minimum requirements for the collection
16 of field verification data should be included in
17 the system."

18 DR. MURRAY: What do you mean by
19 "charge"?

20 MEMBER BROWN: "Charge," or what was
21 the other word you had, Chris?

22 MEMBER WARNER: "Engage," "act".

1 MEMBER BROWN: "Engage".

2 MEMBER HERETH: It means you're giving
3 them the responsibility.

4 MEMBER BELLAMY: It's stronger than
5 ask.

6 MEMBER HERETH: Yes.

7 MEMBER BELLAMY: It's not really a
8 request? It's like --

9 MEMBER HERETH: If there is a better
10 word, I mean, in fact --

11 MEMBER BELLAMY: Do it?

12 MEMBER HERETH: Yes, if there's a
13 better word, fine.

14 DR. MURRAY: "Recommend" perhaps?
15 What if they say no?

16 (Laughter.)

17 DR. MURRAY: Not debatable?

18 MEMBER HERETH: Yes, I think it's
19 really not an option.

20 DR. MURRAY: Okay.

21 MEMBER BELLAMY: If you're charged
22 with something, you're being ordered to do

1 this --

2 MEMBER HERETH: Yes.

3 MEMBER BELLAMY: -- for all practical
4 purposes.

5 MEMBER HERETH: Yes.

6 MEMBER BELLAMY: So, it means that
7 it's ordered.

8 MEMBER HERETH: I mean, this is one of
9 the essential pieces that needs to be done to
10 bring everything to an equivalent basis. And if
11 it's not done, it leaves a gap.

12 MEMBER BROWN: And one item to add
13 that Mark pointed out yesterday is the last
14 paragraph -- or sorry -- the last bullet on the
15 screen there, the sub-bullet, if you will, it
16 talks about an ongoing effort that's been
17 initiated by API and brings together stakeholders
18 and consensus approaches to work rigorously on
19 this effort. I think we're just bringing that
20 again, that strong emphasis to the need to have
21 this in play.

22 CHAIR BURMAN: Can you go back up to

1 that section on the "charge"? So, just put a
2 note that we'll make sure we have the appropriate
3 language, and we'll work with PHMSA's counsel on
4 that. Because whatever that needs to be, we'll
5 make sure. Essentially, you want to ensure that
6 we're delegating to the appropriate --

7 MEMBER BROWN: Right.

8 DR. MURRAY: I would also ask possibly
9 consider -- I think, Mark, you said it already --
10 about what happens if this doesn't happen. I
11 think that might need to be put into context, the
12 implications of not doing it, which might support
13 the charge. If somebody just reads the charge,
14 it seems a little presumptuous. But if you say
15 the reason why that's strongly encouraged, or
16 however it's going to be worded, by saying that
17 this has some longstanding implications if it's
18 not taken care of.

19 MEMBER BELLAMY: Yes. Michael Bellamy
20 with Baker Hughes.

21 To build on that, the way I suggest we
22 now think about the output of the Technology

1 Committee, our recommendations fall into one of
2 two categories, as they're now structured. One
3 category is dealing with the issue of garbage in,
4 garbage out. So, if we don't collect information
5 in a structured and consistent way, then the
6 analysis of that data will be more difficult and
7 the consequent output will be less useful. And I
8 know Dan is going to talk about structured versus
9 unstructured, and that can be dealt with, as we
10 heard from Mark yesterday. So, that is one
11 category, is the notion of garbage in versus
12 garbage out.

13 And the second category is all about
14 what you put it into, the container, the
15 structure, the IT structure that needs to be set
16 up to handle the data, whether it's structured or
17 unstructured. So, if you think about the output
18 of technology that way, those recommendations
19 support one or the other of those two activities.

20 CHAIR BURMAN: Christopher?

21 MEMBER WARNER: Chris Warner from
22 Mears Group.

1 The only point I wanted to make,
2 because I think yesterday we talked about the
3 importance of adding the word "consensus" to
4 those standards organizations, to communicate
5 that it's not just an industry organization, that
6 it involves other stakeholders in that. So,
7 that's the only thing I would comment on that.

8 MEMBER HERETH: Is the appropriate
9 consensus standards?

10 MEMBER WARNER: Yes.

11 MEMBER HERETH: Sure. It makes sense.

12 MEMBER BROWN: Very good. So, that's
13 a good one. So, we'll add, in front of
14 "standards development organization," we would
15 add "consensus" "standards development
16 organization".

17 MEMBER HERETH: I don't know that you
18 need to add it there, because I think there's a
19 long history of calling it SDOs. There's a long
20 history there.

21 But Chris' point with respect to
22 standards generally, we should be calling them

1 "consensus standards," not "industry standards".
2 The ANSI process involves operators, the public,
3 universities. It's a broad, open tent.

4 MEMBER BROWN: Very good. And just to
5 reflect that, it does say "to create the
6 consensus minimum requirement". So, I think we
7 also agree with that. I think it's a big deal,
8 SDOs and consensus developments.

9 CHAIR BURMAN: Any questions? Dan?

10 MEMBER COTE: To Michael's point a
11 moment ago, we did talk about structured and
12 unstructured data. And you've gone to a lot of
13 trouble here to define how we want to capture the
14 structured data, again, through the consensus
15 standards.

16 How are you capturing or informing the
17 people that will actually build these databases
18 of that need for an unstructured method of
19 capturing data and collating it and summarizing
20 it, and so on?

21 MEMBER BROWN: What language are you
22 referring to? Can you point us to what --

1 MEMBER COTE: Well, I mean, again,
2 we've just talked about the need to create
3 consensus. Minimum requirements for collection
4 of field verification data, for example. And
5 fraught in this document is references to really
6 specific transmission line data streams.

7 There isn't a lot about the
8 recognition to capture distribution data we'll
9 need. And we had this discussion yesterday
10 morning. I think you missed it, Mark. But there
11 was quite a discussion on the fact that a lot of
12 the distribution data that flows through will not
13 be standard-based; it will be more ad-hoc-based,
14 on the nature of the specific concerns, and range
15 from everything to, you know, fitting failures,
16 to bad fusions, to -- on and on and on. And it
17 won't fit into a standard.

18 At the same time, just in terms of the
19 people who will be tasked with building a
20 database -- and we've talked a lot about it --
21 there will have to be a strong vehicle for
22 unstructured data, a way to classify it as best

1 we can, recognizing it's not garbage, but it's
2 not going to be perfect, either. And so, all of
3 that is just a key need of the development.

4 MEMBER HERETH: Dan, this is Mark
5 Hereth. I understand what you're saying, but I'm
6 struggling with where it is that you're pointing
7 to. If we can go to that -- I understand
8 entirely what you're saying. And if your point
9 is that we need to capture and make sure of that,
10 then I think that's a great point, that we need
11 to do it.

12 MEMBER COTE: And that is the point.
13 I mean, I was just using this as the vehicle to
14 capture that thought, because there's a lot of
15 description on, again, the more specific, more
16 precise technologies that involve very detailed
17 measurements, very clear practices, and so on.
18 There's a vast panorama of data that we will get
19 out there from the distribution companies that
20 don't fall into those categories.

21 So, we've spent a lot of time with
22 this. What I'm looking for is a bullet or two on

1 the unstructured piece that I'm not sure exists
2 right now, Mark.

3 MEMBER HERETH: Okay.

4 MEMBER ZUNIGA: Mark Zuniga.

5 So, we did design that. If you look
6 at the architecture documentation, the two paths
7 are specifically designed within our diagrams,
8 both in the conceptual as well as the actual
9 architectural diagram.

10 Now I will go back and verify that we
11 have clearly described that in verbiage, because
12 I can tell you I know for a fact it's there in
13 the actual diagrams that we produced. I believe
14 it's also there in verbiage, but I can go back
15 and confirm that.

16 MEMBER COTE: And I would invite you
17 to consider a bullet that reflects that in the
18 recommendations as well, because I think that
19 elevates it to a clear need of VIS. And I would
20 argue strongly that, based on the number of
21 incidents that exist in distribution as opposed
22 to pipelines, it is a critical need.

1 MEMBER ZUNIGA: Understood. And I
2 believe it was there before, and I believe we
3 pulled it out, and now we're talking about
4 pushing it back in again, which is fine. I
5 believe it's all there.

6 MEMBER COTE: Understand what you
7 said.

8 MEMBER ZUNIGA: I'm confident, 100
9 percent confident in terms of the architecture
10 diagram and the conceptual diagrams. I'll just
11 make sure, verify the language is clearly stated,
12 so that it's sort in bold out there that it's
13 there. But I'm actually pretty confident the
14 verbiage is there as well.

15 MEMBER COTE: I understand.

16 CHAIR BURMAN: Okay.

17 MEMBER HERETH: I think you pick it up
18 under T-7 and 8 or 8 and 9 by getting those back
19 in.

20 MEMBER BROWN: Right.

21 Maybe if we scroll back up the page.
22 Page 14, just above.

1 MEMBER HERETH: Because they brought
2 it back in yesterday.

3 MEMBER BROWN: Sorry. Back down.
4 Back down. There we are. So, bring it up all
5 the way. There you go right there.

6 So, this might be an area, Dan, to
7 take a look at.

8 MEMBER COTE: Yes.

9 MEMBER BROWN: So, here is where we
10 said, "The VIS should consider the qualitative
11 and quantitative inputs needed to support
12 meaningful analysis." It goes on to say,
13 specifically, the second bullet, the inputs will
14 be from various sources. We could talk about
15 structured/unstructured there. Some will specify
16 values, categorical data types, attributes names,
17 codes, acronyms, et cetera.

18 We think about what you're mentioning.
19 We think about that here. It's not explicitly as
20 written as such, but we could maybe consider that
21 accordingly, Dan?

22 MEMBER COTE: Yes. And again, I mean,

1 this is very subtle. So, someone in an LDC
2 reading of this is not going to understand the
3 context of this discussion. That's why I urge
4 you to state it very clearly.

5 MEMBER BROWN: Okay.

6 MEMBER COTE: So, they'll recognize
7 that the data that they'll be submitting will,
8 indeed, be captured.

9 MEMBER BROWN: Okay.

10 MEMBER COTE: Okay?

11 MEMBER BROWN: Another item. Maybe
12 I'm just thinking about out ahead to what this
13 issues analysis team looks like. I would hope as
14 well that all the different data that will be
15 flooded into the VIS will be kind of reviewed,
16 vetted, and then, understood how best to manage
17 that data, and then, with the data scientists,
18 put it all together and get some meaningful
19 analysis. I would hope that would be a good
20 outcome.

21 MEMBER COTE: Don't disagree with
22 that, but, again, I mean, it's sort of

1 integrated. The process will need to be
2 thoroughly integrated, starting with all the data
3 that we're prepared to accept, people
4 understanding what to do with it, what will be
5 very structured and what will be relatively
6 unstructured. And yet, the analysis that comes
7 out the other end needs to be as close as
8 possible to clear, concise, valid, to Michael's
9 point about garbage in and garbage out. So, yes.

10 CHAIR BURMAN: Okay. Hold on.

11 Sorry for that interruption.

12 Bryce?

13 I see a lot of tent cards up, and is
14 that still intentional?

15 On the phone?

16 (No response.)

17 CHAIR BURMAN: Okay. In the audience?

18 Okay. Hearing none --

19 MEMBER BROWN: Okay. Moving
20 ahead -- just a couple more to go -- the next one
21 there. Scroll back up, please. The top of page
22 16 or so. Right there at the top. Thank you.

1 This one, again, we reviewed
2 yesterday. Similar, in that instead of
3 "incorporating the appropriate standards
4 development organization," we talk about
5 "charge". So, I made a note here that we need to
6 check with legal what does "charge" mean and
7 should we use another term.

8 But this is, again, as a reminder that
9 we establish a consensus protocol for comparing
10 an assessment result versus that corresponding
11 NDE field measurement. So, there are many ways
12 to do that. And then, when we start to think
13 about how to do that as a common approach per se,
14 that we have a better understanding of what gets
15 placed into the VIS, so that we all bring back
16 the same learnings and understandings from the
17 way that data was shared, because it was compared
18 in a way that is consensus protocol. So, that is
19 a reminder of what this recommendation is about,
20 with a couple of edits to the text on the charge,
21 again, with a reminder we need to check that
22 term.

1 Any questions?

2 CHAIR BURMAN: Anyone on the phone?

3 In the audience?

4 MR. SAWHILL: Steven Sawhill with DNV
5 GL.

6 Since my organization is one of the
7 standards developing organizations, I would
8 suggest that you use a word like "engage". Since
9 we don't work for you, I don't know that we're in
10 a position to be charged to do something, unless
11 you're talking about a government standards
12 organization. But we would certainly be happy to
13 be engaged in the process.

14 MEMBER BROWN: Okay. Moving ahead,
15 again, the next supporting recommendation was
16 again from the original Draft No. 2. We reviewed
17 this briefly yesterday, and a minor change to the
18 beginning of that, as opposed to, "Importantly,"
19 comma, we started the sentence with "The VIS
20 should provide analyses and outputs that serve to
21 encourage adoption of best practices across the
22 industry, signaling continuous improvement in

1 technology, and the analyses and outputs should
2 ensure anonymity is maintained."

3 So, again, this was reviewed
4 yesterday. This is all about one of the mandated
5 items around continuous improvement, and again, a
6 minor edit to the text.

7 Questions?

8 CHAIR BURMAN: On the phone? In the
9 audience?

10 (No response.)

11 MEMBER BROWN: Okay. Very good. And
12 the very last one is one that we brought up
13 yesterday as one of the mandated items around the
14 architecture and the system of the VIS itself.
15 And we talked about the fact that most of
16 architecture IT was placed into its own section,
17 which we agreed on. But, yet, most of those
18 items that were recommendations in the past
19 became considerations. So, we've gone back, and
20 I'd like maybe Mark Zuniga to speak to this one
21 real quick. We've elevated at least this single
22 important supporting recommendation now, and we

1 can talk about that.

2 Mark?

3 MEMBER ZUNIGA: Sure. You want to
4 just read it?

5 So, "The VIS Working Group recommends
6 the development, implementation, and operation of
7 a technology platform (the VIS hub) that is
8 secure, ensures anonymity, and fosters
9 collaborative information sharing, analysis, and
10 reporting for the purpose of advancing pipeline
11 safety. The VIS hub requires a robust
12 architecture that possesses scalability,
13 elasticity, and resiliency. The VIS hub should
14 store and process data from disparate and
15 potentially diverse sources with varying degrees
16 of structure, having the ability to visualize and
17 deliver informative results for all
18 stakeholders." And then, "Details of the
19 architecture IT components are further
20 described," and then, we need to include whatever
21 section it ends up in.

22 Questions? Comments? Concerns?

1 MEMBER PERRY: And I think this is
2 where Walter was talking about the VIS hub being
3 more emphasized, assure it's not just in
4 parentheses as an afterthought.

5 MEMBER BROWN: Very good.

6 MEMBER ZUNIGA: Yes, exactly. That
7 could be give an agency.

8 MEMBER BROWN: So, that is a good
9 point you raise. I know the VIS hub is
10 referenced throughout the recommendation
11 document. So, maybe that's easy to edit.

12 MEMBER ZUNIGA: It's just a
13 wordsmithing, I would imagine.

14 MEMBER BROWN: Okay.

15 CHAIR BURMAN: Dr. Borener?

16 DR. BORENER: I'm Sherry Borener from
17 PHMSA.

18 So, just with the word "anonymity,"
19 the point at which data is de-identified is an
20 essential decision that affects its usability in
21 different kinds of analyses. So, you may not
22 know that you need to have certain data fused

1 until after you've started the analysis. And
2 that's one of the IAT processes.

3 So, rather than "anonymity," because
4 I don't think you want people to anonymously
5 access the VIS, I think what you would like to
6 know is who the users are, but the data is de-
7 identified. I know it sounds like a simple --
8 but you could have a requirement that anybody
9 anonymously could access it under this statement.

10 MEMBER BROWN: Okay. Very good.

11 Thank you.

12 MEMBER ZUNIGA: Yes, we can clarify
13 that.

14 MEMBER BROWN: Okay. Just to bring it
15 back from our discussion yesterday, we know that
16 our effort here is to stand up, in fact, an
17 infrastructure system, an infrastructure of
18 architecture. And the question posed on the
19 table yesterday was, if we set up the
20 recommendation as such, should it not become one
21 of the more important recommendations? If there
22 are three now, this could be a fourth.

1 And I'd like to bring that to the
2 table and continue that discussion briefly, as we
3 need to, and see if that makes sense because we
4 also feel it's an important aspect of our
5 efforts. Because, again, this piece of
6 architecture will have to have some decisions
7 made around finances, et cetera. Surely, it's
8 important. So, I would like to put that on the
9 table and ask for some discussion, if you
10 wouldn't mind.

11 CHAIR BURMAN: Dan?

12 MEMBER COTE: And not necessarily in
13 response to your observation, but there have been
14 a number of discussions on how to elevate various
15 issues. In my mind, the three big ones are
16 absolutely threshold issues, that without them,
17 VIS, for all practical purposes, doesn't exist.

18 So, maybe we need another category
19 between the three big ones and between the vast
20 herd of recommendations in the body of the
21 report. I'm not sure I would be comfortable with
22 putting a lot more in those top three, because,

1 again, they're so seminal to simply having a VIS.

2 The development, for example -- Randy
3 is not here today, but I'll certainly represent
4 this part of the discussion. Without the
5 legislation we need, we don't have a VIS.
6 Without adding distribution, VIS won't work; it
7 won't produce the result that we need it to.
8 Those, in my mind, are very top-end issues
9 designed to get everyone's attention.

10 So, when we get to the critically
11 important details of each section, maybe there's
12 another level in this that goes above, again, all
13 of the recommendations and the supporting
14 recommendations, but doesn't quite reach that
15 threshold that everyone has to understand.

16 I think I'd be comfortable with that
17 because we must have, without having done the
18 math, we probably have 60 or 70, 80
19 recommendations. And maybe that needs to be
20 synthesized in the top three. And whether we
21 call those primary or threshold, or whatever word
22 we use, and then, there's another block a bit

1 further down. I don't know how everyone feels
2 about that, but just a view.

3 Thank you.

4 CHAIR BURMAN: Dr. Murray?

5 DR. MURRAY: Just a suggestion, based
6 on what you said, Dan. I caution a third layer
7 of recommendations at this stage. But I would
8 suggest is that the Technology, and any
9 subcommittee, rank or prioritize, not necessarily
10 prioritize meaning do this and not that, but list
11 them in order of urgency or necessity.

12 For example, for technology, this
13 really is the essence of all of the other
14 recommendations. They all fit under establishing
15 the platform.

16 And I know yesterday we talked a bit
17 about going back and looking at how to rank it
18 and what order you put your recommendations in.
19 It might fit in there. And that's just one idea.

20 MEMBER COTE: And I could certainly
21 support that.

22 MEMBER PERRY: Simona Perry, Pipeline

1 Safety Coalition.

2 I support the ranking as well in the
3 recommendations. I'm also wondering if there
4 also should be a place in those three primary
5 recommendations where there is a specific mention
6 of a technology platform. Because what maybe
7 concerns me is that we don't talk about in those
8 three. And we know that this will be a huge part
9 of the funding necessary to stand up the VIS.
10 And so, I worry that Congress might construe what
11 we have currently in the recommendations as just
12 another board or something amorphous that sits
13 there.

14 Instead, providing some specific
15 language, not creating another recommendation,
16 but within, you know, "Congress should authorize
17 and stand up a VIS, including a technology
18 platform," or something simple like that, that
19 makes sure that that's there out front.

20 CHAIR BURMAN: Dan?

21 MEMBER COTE: I'm in.

22 (Laughter.)

1 CHAIR BURMAN: So, what does that mean
2 that we're in?

3 MEMBER PERRY: Well, I mean, if we put
4 in a word or two in this, and just into No. 1,
5 right? Just "Congress should authorize and stand
6 up a VIS, including a technology platform or VIS
7 hub." I don't know if you want the "hub" there,
8 but that would be the recommendation.

9 CHAIR BURMAN: And is everyone in
10 agreement with that?

11 (Chorus of yeses.)

12 CHAIR BURMAN: Okay. All right.
13 That makes sense?

14 On the phone?

15 (No response.)

16 CHAIR BURMAN: Okay. Just making
17 sure.

18 And then, in the audience?

19 (No response.)

20 CHAIR BURMAN: Okay. Good. This
21 one, silence means consensus.

22 (Laughter.)

1 MEMBER BROWN: Thank you.

2 CHAIR BURMAN: Thanks.

3 MEMBER BROWN: Thank you.

4 CHAIR BURMAN: All right. Well, good.
5 All right.

6 So, again, I think right now we can
7 move along without the vote because we can take
8 it all as one global one.

9 I will say that I think it's at that
10 point that a good 10-minute, no longer than 10-
11 minute, break is appropriate at this point.

12 When we come back, we will stand up
13 the Gantt chart. So, Mark, if you will be
14 prepared for that?

15 Leif?

16 MEMBER JENSEN: There were some
17 additional homework assignments for Competence,
18 Awareness, and Training.

19 CHAIR BURMAN: Yes, we're going to do
20 that.

21 MEMBER JENSEN: Okay.

22 CHAIR BURMAN: Actually, is that the

1 only reporting? Funding and Legal also had some,
2 I believe?

3 MEMBER JENSEN: Yes, and I believe
4 Randy is on his way.

5 CHAIR BURMAN: Yes, he's on his way.
6 So, we'll wait for that, just because I think
7 it's important to stand up the Gantt, and then,
8 we can fold that in. Okay?

9 All right. Good. So, we'll take a
10 10-minute break. We'll be back at 10:20, and
11 we'll be good to go.

12 (Whereupon, the above-entitled matter
13 went off the record at 10:15 a.m. and resumed at
14 10:34 a.m.)

15 CHAIR BURMAN: Okay. So we are back.
16 I'm now going to turn it over to -- and just to
17 note Randy is in the house. So thank you, Randy.

18 (Laughter.)

19 CHAIR BURMAN: Randy, we've gone
20 through most of the subcommittee homework
21 assignments. We still have yours and -- what
22 else? Right, the training. And then we're going

1 to come back to that after we do the Gantt chart
2 because we think it's appropriate at this time to
3 do sort of the standup of that. And then we'll
4 come back to you and then take care of that.

5 MEMBER PARKER: That sounds great.

6 And also Leif has graciously agreed to go before
7 me because I'm trying to create a document that
8 has the red lines --

9 CHAIR BURMAN: Okay.

10 MEMBER PARKER: -- in it so that we
11 can put it on the screen.

12 CHAIR BURMAN: Okay, perfect. Thank
13 you. And if you're not ready, we also have other
14 things we can insert too.

15 MEMBER PARKER: Thank you.

16 CHAIR BURMAN: Okay. Mark?

17 MEMBER HERETH: I struggled with how
18 all this fits together and how it would play out
19 over time. And so there was a small group of us
20 that have created this. What we tried to do at a
21 very high level is to say, what are the key steps
22 that need to occur in order for us to be able to

1 stand up a VIS.

2 And the first one there is on line 4
3 which is that Congress would authorize a
4 Voluntary Information System including legal
5 protections. And then secondly, that PHMSA would
6 stand up a VIS administrative staff. And I'm
7 going to walk you through this.

8 But recognize that this is work in
9 progress. If there's ways that we can improve
10 this, clarify it, we're certainly open to that.
11 We vetted this with a few people. But the idea
12 is that we're creating -- I know. It's an ice
13 cream cone, not a banana, right? Well, we're
14 going to talk about that, yes, yes.

15 So the bottom line here is we tried to
16 create the activities or tasks that would move
17 the process along from initial congressional
18 authorization through standing up administrative
19 staff, standing up an executive board. And the
20 next line is that the -- and then the next
21 several tasks are under the control of the
22 executive board which is to establish governance

1 principles, to identify and select VIS analysis
2 team members, and then finally there that PHMSA
3 would develop an RFP and select a VIS support
4 contractor in consultation with the executive
5 board. And that reflects some changes that
6 people had sent in.

7 If you could go back out. Oh, I'm
8 sorry. If you could go back out. What this does
9 is we show a time line here where the solid green
10 is generally when these things might happen with
11 some light green color showing that they could be
12 started earlier.

13 So for example, for authorization, we
14 should that that would occur in the third or
15 fourth quarter of 2019. It's probably likely
16 that hearings will happen in the spring and
17 summer and that a bill would be passed in the
18 fall or towards the end of the year.

19 Historically, that's the way it's happened.

20 Although sometimes it slips into the next year.

21 So this is where this would be of value because

22 then you can look at what are the impacts to each

1 of the tasks that follow.

2 And then you can see if you'll go down
3 in size just a touch -- right there, that's
4 perfect -- then these initial tasks that would be
5 undertaken by PHMSA and the executive board,
6 those would then begin to start after that which
7 would be in 2020.

8 And there's two different color tones
9 here again. The dark green is when something
10 could most likely occur with some flexibility.
11 And the dark green is developmental work and the
12 lighter yellow color there is actually the
13 implementation.

14 So there's a period of development of
15 the process, development of the technology,
16 development of standing up the architecture. And
17 then that's the green. And then the yellow that
18 follows it is the ongoing period of
19 implementation.

20 And so you'll see that some of the
21 early steps really occur once and then they don't
22 occur again. So there's authorization. You're

1 standing up the administrative staff. You're
2 developing governance principles. Those are one-
3 time events other than reauthorization at some
4 point. And then it will continue down -- or
5 maybe I'll stop and ask if there's questions at
6 that point.

7 MEMBER COTE: Thank you for creating
8 it. I think it provides some structure around
9 our expectations. Just two quick questions. And
10 if this is a level of detail that's too deep,
11 feel free to turn me off immediately.

12 But the two pieces that I was a bit
13 surprised I didn't see was -- and some of this is
14 based on the way you have the Gantt chart. This
15 doesn't show the creation of the IT system. I
16 see where PHMSA is tasked with an RFP and
17 selecting that third party. But I don't see, I
18 mean, a major piece of sharing information is
19 going to be really standing up the IT system.

20 MEMBER HERETH: Yes. So if you'll
21 scroll down, the way we looked at this is that
22 the IT structure would be set up over time as a

1 part of implementing these different types of
2 process sharing.

3 MEMBER COTE: Oh, got you. So --

4 MEMBER HERETH: And the reason that we
5 laid it out this way is that provides the
6 opportunity to build capacity over time so that
7 your funding level is more consistent for a
8 series of years as opposed to try to do a whole
9 bunch of work over a short period of time.

10 MEMBER COTE: Understand.

11 MEMBER HERETH: And so that takes me
12 to the next piece, Dan, which is these blocks of
13 information here. So the top level if you recall
14 our top level sharing was incidents and accidents
15 and near misses. The next level was sharing this
16 with the public. The next was lessons learned
17 from assessments.

18 So each of these blocks, like 11, 14,
19 and 17, those in that dark green area, that
20 includes standing up the technology and the
21 architecture that supports it. And that would be
22 done over a phased period of time.

1 MEMBER COTE: Understand. And that's
2 very helpful. I guess I saw that needing -- or
3 in my ignorance, I saw that needing to be front
4 end loaded before you could start the back part.
5 That's very helpful.

6 MEMBER HERETH: And you could
7 certainly do that, I think. Because the
8 challenge is developing it when you need it, not
9 developing it so early that it's really
10 unproductive in terms of how it contributes to
11 the information sharing process.

12 MEMBER COTE: That's fair. And I
13 really like the way you laid out the information
14 sharing blocks in a prioritized manner. I think
15 that makes perfect sense and where we get the
16 most bang for the buck. And I think you've
17 identified that well. I think this is very well
18 thought through.

19 MEMBER HERETH: Thank you. If you can
20 scan back out, one of the things that's
21 interesting is we moved around these various
22 forms of sharing information based on different

1 people's feedback. And Simona, I think you'll
2 enjoy this is that we have sharing with the
3 public pretty early on.

4 And at one point, we had it not
5 occurring until much later on, and we really had
6 some candid conversations that if we don't begin
7 to do that sharing early, we're not going to get
8 the seeds and the experience and the trust and
9 the honesty and everything else that we need to
10 have. So we show that pretty early in the
11 process or in the schedule. Yes sir?

12 MEMBER JONES: It's Walter Jones. You
13 see the -- where is it at here -- the executive
14 board establishment of governance principles as
15 static in that dynamic?

16 MEMBER HERETH: Yes, that's a good
17 question, yes.

18 MEMBER JONES: Okay. I was just
19 wondering. Because wouldn't they be a part of
20 the -- wouldn't that also be subject to our
21 continuous improvement process?

22 MEMBER HERETH: Good point. Thank

1 you. That's a great point.

2 MEMBER JONES: Okay.

3 MS. PEARCE: Thank you. I think the
4 Gantt chart is great. I have one suggestion.
5 It's more a matter of semantics and nuance than
6 anything else. But rather than saying -- or go
7 up to the top, number one, please, if you don't
8 mind. Thank you. Rather than go directly to
9 Congress, let's remember that this report is --
10 these recommendations are actually being made to
11 the Secretary.

12 So we need to put the Secretary first
13 in accepting recommendations. And then actually
14 it will be the decision of the Secretary whether
15 or not to forward those to Congress. That does
16 not mean that people can't share the results
17 obviously with their congressional delegations.
18 But we do need to make sure the Secretary is
19 there first.

20 MEMBER HERETH: In fact, if I was
21 really slick, what I would say is that based on
22 your earlier comments today, that those light

1 green areas reflect that that's what the
2 Secretary would do. But you're right to have it
3 as a separate line item. That's great. That's
4 great. That's a great idea. It's a necessary
5 step, yes. Thank you.

6 The only other thing that I would ask
7 you is, are these time lines too aggressive? Are
8 they not aggressive enough? I'll pose that.

9 CHAIR BURMAN: Alan?

10 MEMBER MAYBERRY: My only comment on
11 that, Mark, is debating do you even put the
12 specific dates or do you put time, like, for that
13 step because this will just become a sound bite
14 that you didn't finish that by 2020.

15 MEMBER HERETH: That would never
16 happen.

17 (Laughter.)

18 MEMBER MAYBERRY: Yes, I don't know
19 where I got that.

20 MEMBER HERETH: I don't know where you
21 would get an idea like that. So thank you for
22 saying that. And actually, Dr. Murray had that

1 great idea of actually putting quarters or
2 whatever. We created it this way because we
3 really wanted everybody to see that it's a multi-
4 year effort, right? You're in 2023 before you
5 really get everything up and running.

6 That's a long window. And we wanted
7 everybody to appreciate that it's a long period
8 of time. But we can certainly make that it goes
9 by quarters, starts after quarter whatever. I
10 think Dr. Murray, you made the suggestion of --

11 DR. MURRAY: After enactment.

12 MEMBER HERETH: Yes, or maybe after
13 the Secretary acts.

14 CHAIR BURMAN: Dan and then Leif.

15 MEMBER COTE: Just a question on
16 timing. And this may be a radical thought that
17 I'll address to Alan and to you. But I was
18 wondering, do we need to make that congressional
19 approval of everything contingent upon that
20 piece? Is there any way we could start? Because
21 there's a lot of really great public information
22 available today that doesn't necessitate industry

1 reporting and trigger all of the confidentiality
2 concerns.

3 But we could mine PHMSA data, for
4 example, state reports. There's a ton of
5 information out there that's never really been
6 disseminated in a clear way to the industry or
7 the public that's readily available. And so I'm
8 wondering if we could do those sorts of things
9 early.

10 And I think when I think about DIMP,
11 for example, for the distribution industry,
12 there's a cornucopia of risks out there that
13 we've encountered as individual operators that
14 have never been networked, never been shared
15 across the industry. And no one has taken the
16 time to really dig them out of the PHMSA
17 database.

18 But those kinds of things, and I
19 suspect the analogous situations probably would
20 apply to pipeline as well. And so just wondering
21 if some of that stuff could start a bit early.
22 And so which would mean sort of standing up maybe

1 VIS in the fourth quarter. And by that time,
2 we'll see how Congress has reacted to some of
3 this. Just sort of tighten the time line just a
4 bit.

5 MEMBER HERETH: So does the
6 distinguished lawyer from the city of Houston
7 want to respond to that? I see he's busy on his
8 report. So maybe I'll -- Dan, you're on a great
9 point. We actually had a version of this which
10 showed PHMSA potentially starting this at the
11 beginning of next year prior to authorization.
12 And we actually moved away from that because we
13 were concerned that it might send the wrong
14 signals to people on the Hill and that it might
15 have a negative effect, right? And Randy, you
16 can please weigh in.

17 MEMBER PARKER: Yes, we thought about
18 it quite a bit and we don't want to get ahead of
19 the process. In other words, once the
20 recommendations come out and the Secretary sends
21 them to the Hill, there will be lots of people
22 who are very interested -- lots of people will be

1 interested and lots of people will be involved
2 including the committees.

3 And if we start taking actions that
4 assume certain things or presume certain things,
5 I think we will not engender good will on the
6 Hill. So it would be best if we timed it and let
7 them take the lead. At least that's my view.

8 MEMBER JONES: I would dissent from
9 that view. I would think we should get rolling
10 as fast as possible and get this thing moving.
11 It's just my view. And, like, I'm in support of
12 everything we've done. I'm not confident that
13 Congress is going to act in a timely manner.
14 I've said that to you quite a few times. And in
15 looking at the current makeup of Congress, I'm
16 not confident they're necessarily going to take
17 all of our recommendations.

18 They may take this model and making it
19 into something else in which many of us sitting
20 at this table may decide to pull out because it
21 wasn't designed the way we put it together which
22 means that some of the things that Dan is talking

1 about won't be implemented at all.

2 So I would support getting this thing
3 going and give them a reason to fund it because
4 it's already moving and acting. And if you give
5 us the anonymity protection, litigation
6 protection that you're looking for, it could get
7 even better than what you're getting now. But
8 that's just my view.

9 CHAIR BURMAN: I echo Walter's
10 comments. Leif, Bryce?

11 MEMBER JENSEN: Thank you. Leif
12 Jensen, Sunoco Pipeline. I do agree with
13 everything that's been said thus far. But part
14 of the reason, recognize that the reason it has
15 to go to the Secretary and then to Congress is
16 that we want to preserve the confidentiality, the
17 protection from litigation, all the other things
18 that Randy described yesterday.

19 All that said, in reflecting what's in
20 the best practice recommendations and recognizing
21 that there's already systems in place. There's
22 trade associations that have been using which

1 operators show up and share their information.
2 There's the whole program within the PRCI. And
3 so in a good faith effort, I think once the
4 Secretary accepts the recommendation or portions
5 thereof and submits it to Congress in a good
6 faith effort, we could get the ball rolling
7 utilizing some of those venues without
8 approaching the point where we're going to
9 compromise the regulatory issues that Randy
10 discussed yesterday.

11 CHAIR BURMAN: Walter, do you agree
12 with that?

13 MEMBER JONES: I agree with what Leif
14 said, yes. But I still -- I mean, I could live
15 with what Leif said. I'll put it that way. I
16 think we should move because I just don't have
17 faith in Congress getting us what we have all
18 worked on the last two years. That's all I'm
19 saying. And then many of us will walk away from
20 this, like, this isn't what we thought it would
21 be. And now you've got to have new negotiations.

22 And I don't know. I like what Leif

1 said, but I'm just not confident that Congress is
2 going to act in a manner exactly like we want
3 them to do.

4 CHAIR BURMAN: See, I'm a pessimistic
5 optimist. I agree with both of you.

6 (Laughter.)

7 CHAIR BURMAN: No, seriously. Like,
8 I think you're both correct, right, in many ways,
9 like, is that we have to move quickly and at the
10 same time we have to recognize that this is going
11 to help. But we also have to recognize that
12 there's a lot that has to be done after this.
13 This isn't --

14 MEMBER JONES: And I just look at it,
15 like, if we went forward on some of the things,
16 maybe some of the things that Dan talked about
17 that you guys know better than I. And let's say
18 we got success, and nothing succeeds like
19 success.

20 Once we get success, there's going to
21 be a bunch of people in Congress, like, wanting
22 to champion the process and willing to fight back

1 against the detractors about the pitfalls of
2 getting a free pass from litigation or anonymity.
3 I'm probably saying it wrong. But nothing
4 succeeds like success. And the public's issues.
5 Like, wow, they're actually doing what they said
6 they're planning on doing.

7 Technology, I mean, technology exists
8 now. But if we set this up, there's going to be
9 technology available that we're not even thinking
10 about that will meet our goals that once the
11 designers say, oh, that's what they're doing.
12 Well, we could make this even better. None of
13 that happens if we're going to wait around for
14 those cats down the hall to figure it all out.

15 CHAIR BURMAN: I think in some ways
16 the report needs to reflect the urgency because
17 that's really what Walter is speaking to.

18 MEMBER HERETH: Yes, and really,
19 Walter, I think what we're talking about is
20 initiating the one that relates to incidents and
21 accidents, lessons learned, which is already
22 publicly available information. And you wouldn't

1 need the protections that we've talked about in a
2 regulatory and legal section.

3 So in fact, we drew it up that way at
4 one point and went back and forth a number of
5 times reflecting the conversation we've had here.
6 So I think you can certainly show it that way and
7 as the chairman says, reflect that sense of
8 urgency. It looks like Dr. Mayberry has a
9 comment.

10 MEMBER MAYBERRY: I'm actually
11 yielding my time to the deputy administrator.

12 (Laughter.)

13 MS. PEARCE: So we appreciate the
14 enthusiasm. That said, we, PHMSA, have to be
15 very careful about standing up anything that's
16 not yet authorized and that we don't have an
17 appropriation for. So there are steps that are
18 just built into the system that we can't take and
19 we have our folks from our finance here that are
20 kind of shaking their heads around.

21 So there's some things that we can't
22 do. I think incorporating your request that this

1 happen in as an immediate manner as possible
2 considering we're talking about both the
3 government and then Congress is great. But I
4 just want to caution that we shouldn't expect
5 that we will be able to take much action before
6 we have those authorizations. That doesn't mean
7 we can't ask them to take action quickly, but we
8 still even have to get through the Secretary,
9 don't forget.

10 CHAIR BURMAN: Understood. Oh, I'm
11 sorry. Bryce?

12 MEMBER BROWN: Mark, I think I know
13 the answer to the question. But think about the
14 time lines and think about some of the supporting
15 recommendations coming off of the, say, discrete
16 data side. When you start the process to look at
17 discrete data, that also initiates part of the
18 supporting recommendations like looking at SDOs
19 and talking about practices, procedures. Is that
20 also --

21 MEMBER HERETH: Keep going down,
22 please. So this one here, so it's discrete

1 integrity assessment data. So we could go back
2 out a little bit. So we showed it later on,
3 trying to get momentum and success with the
4 others that are a little bit simpler first.
5 Okay. This is where I actually expected you and
6 Michael and to weigh in and say, we need to start
7 earlier.

8 But the idea is that if we show up
9 after you had realized the success with the
10 incident accident database and the higher level
11 learnings from applications of integrity
12 assessments. So learnings about girth welds,
13 learnings about EMAT and SCC, learnings about
14 long axial corrosion. That's in a different
15 level than the discrete data.

16 So it's incident accident, just high
17 level lessons from integrity assessments. And
18 then the discrete data is down here in the next
19 phase that follows. You could show that starting
20 earlier. And so that, in and of itself, its own
21 step.

22 MEMBER BROWN: Yes, I guess just

1 understanding exactly that is do we have to
2 prepare ourselves to be able to start to share
3 that data. Or when you start it, that's when we
4 start to compare ourselves as well. Does that
5 make sense?

6 MEMBER HERETH: Yes, I think that's
7 one that we need to look at. And we really need
8 feedback from you guys frankly --

9 MEMBER BROWN: Sure.

10 MEMBER HERETH: -- and the operators on
11 where that needs to be positioned in the time
12 line.

13 MEMBER BROWN: Thank you.

14 MEMBER COTE: There's a piece of this
15 that is intrinsic but that we haven't described
16 as its own bullet. At some point, this could be
17 relatively early in the process. Virtually, as
18 soon as Congress authorizes this, we need to
19 reach out to operators.

20 We need to communicate the existence
21 of all of this and almost have a PR campaign to
22 save the industry, particularly the distribution

1 industry which isn't nearly as sort of
2 consolidated as the pipeline industry because
3 it's so much larger and so much more diverse.
4 But we need to think about how to do that in a
5 very measured way saying, this is coming. Here's
6 what we're looking for. Share your information.
7 I mean, we need to do a selling job here as well.

8 And so would strongly thing that we
9 may want to identify that as a goal unto itself.
10 And then before we start to disseminate data down
11 at whatever step that was, 23, 24, wherever it
12 was, we need to solicit the industry to start
13 providing data virtually as soon as we get
14 protections for that data.

15 Just a thought, but I could see us
16 sort of sequencing because we're going to have to
17 build -- particularly in the confidential data,
18 it's going take us a little time to build data
19 sets that will be statistically large enough so
20 that you can assume some level of anonymity in
21 terms of what's being reported. Do you know what
22 I mean? It's not the first day we get a report.

1 It winds up being ready for prime time.

2 MEMBER HERETH: Oh, absolutely. So I
3 think that's why you show generally a six to
4 nine-month developmental period where you're
5 standing up the concepts, the data analyses
6 you're going to be doing, the data and the
7 architecture that supports that. And then you
8 move into an implementation phase. So --

9 MEMBER COTE: Right.

10 MEMBER HERETH: -- I agree with you
11 100 percent.

12 MEMBER COTE: Yes, and so maybe
13 there's a -- and I'm not sure I'd call it a
14 marketing campaign. But sort of an education
15 campaign to the industry and start gathering data
16 as close as possible to congressional approval
17 for it.

18 CHAIR BURMAN: I would just question
19 a little bit on that because some of that I think
20 can be done not necessarily needing to sort of
21 get into all the details of what may be. And I
22 don't want there to be any perceived industry

1 lobbying issues. So I'm just sensitive to us
2 really sticking to sort of the framework and some
3 of that type of stuff can be more under the hood,
4 what else might happen.

5 This is more of the framework of core
6 details that need to be done. And some of that
7 stuff can be done in a way that sticks to those
8 core processes. Other things like that,
9 educational assessment can be done and what would
10 need to be done to get over the hump with that.
11 So I just caution on those issues. Michael?

12 MEMBER BELLAMY: Yes, Michael Bellamy,
13 Baker Hughes. So the reason I wanted to link
14 this with P-2 and the technology, that thread
15 within technology that's to do with garbage in,
16 garbage out is that we cannot just keep -- we
17 cannot -- I don't think it would be responsible
18 for us -- how do I put this?

19 I think it's important that we manage
20 expectations around what will happen at the
21 beginning of this. And I'm reminded of a
22 presentation that we got. I forget exactly who

1 did it. We were in the -- it was the technology
2 team. Jason Cradit invited some colleagues to
3 come and present to us on the IT aspects of data
4 sharing and data managing and data manipulation,
5 analysis, reporting.

6 It was the session we had at the
7 transportation research center if I recall
8 correctly. And the piece of advice, it was very
9 late in the day. On the second day, most people,
10 a great deal of the audience had already gone
11 home or gone to catch their flights.

12 But one of the things that was said in
13 that meeting was define what it is what you want
14 this system to do. The most important thing --
15 we can do anything. Technology can do whatever
16 you want given enough time and money. But be
17 very clear about what you want to do, what you
18 want to achieve.

19 So the reason I wanted to link the
20 Gantt chart with the P-2 and the garbage in,
21 garbage out is that I think it's very important
22 that that is defined, the what. What is it

1 that's going to be the desired output? Because
2 that will defined the desired input.

3 Now, when this whole thing started, we
4 had a very clear mandate which was about in-line
5 inspection for the purpose -- sharing that data
6 for the purpose of improving inspection
7 technology. It was quite tight, quite neat. You
8 could imagine what the inputs would be because
9 you knew what the desired output was.

10 We've broadened that, fine. I'm not
11 going to back to revisit that decision. I
12 promise. But it's made the what a lot more
13 muddy. It's not clear from the document. It
14 doesn't say what we're going to do now. It
15 doesn't directly say what the desired output is.
16 And therefore, we don't know what data we really
17 want to gather. We identify lots of kinds of
18 data and there is an infinite amount of data.

19 But in the absence of that clarity, I
20 think we might be misleading or we risk creating
21 confusion in the minds of the readers. Okay,
22 this is nice. So you're going to set up this

1 thing and we're going to spend some taxpayers'
2 dollars to get it set up. And there's going to
3 be an amount of time spent by some people that I
4 don't know who they are to do something, to share
5 some data. And eventually, it'll have an impact
6 on pipeline safety.

7 I know I'm exaggerating for effect, so
8 I apologize for that. But I'm worried that it'll
9 come across as a little vague at the end of all
10 of this.

11 MEMBER HERETH: Can I try and address
12 that, please. So Michael, that's exactly why in
13 a process sharing group and in best practices we
14 try to focus on first looking at incidents and
15 accidents and near misses. Those are things we
16 know today. Those are a place we can have a
17 greater impact. And I would argue frankly that I
18 think PHMSA could begin that work today because
19 they're already publishing statistics and
20 findings on incidents and accidents.

21 The second one is really beginning to
22 figure out how to share with the public. And

1 that would be drawing on the work in the
2 incidents and accidents and near misses.

3 The third one is looking and saying --
4 and I think it's pretty specific. It's what
5 lessons have learned from the application of
6 integrity assessment technology? And I think
7 we've had a number of discussions on the fact
8 that there are lessons we've learned and we could
9 be better at how we share that information, both
10 among operators, service providers, and with the
11 public.

12 And with the public, that means
13 sharing that -- not the nitty gritty detail on
14 what this tool does or that tool does. But hey,
15 we've learned and here's how we've learned and
16 here's what we've learned at a very high level.
17 And I think that would help build confidence.

18 Then the next level down is the
19 sharing of the discrete -- we call it discrete
20 data. But I think that's really what the mandate
21 pointed to, right? And that's another level of
22 detail. And that is a to be defined, but I think

1 you guys have laid out generally what that
2 entails.

3 Then there's the fourth level which is
4 really sharing data about risk management. And
5 Dan Cote has helped us see over time. And as
6 Leif pointed out this morning, that risk
7 assessment portion is in the mandate. So it's
8 not as though it got added. It's in the mandate.

9 And the reason we phased and put risk
10 management later is we felt it wasn't as high a
11 priority as learning from incidents and accidents
12 that we have publicly available data on today and
13 the high level lessons we can learn from applying
14 integrity assessment technology.

15 So in saying that, it is open ended to
16 some degree. But those are pretty well defined
17 categories. And to some degree, we need to have
18 an open mind because when we have an incident
19 that surprises us, the executive board needs to
20 be able to step back and say, what are the
21 analyses we need to do to better understand this?
22 That's what we should be expecting among other

1 things.

2 MEMBER BELLAMY: Thank you. And I
3 think there is a gap, however, between aspiration
4 and reality. So aspiration and real life. And I
5 think your Gantt chart and the reason I was
6 excited about seeing it is I think it attempts to
7 bridge that gap.

8 So I do think and I do encourage us to
9 think about how we take the Gantt chart, work it
10 up somehow as maybe not the answer but a possible
11 way forward to bridge between the aspirations
12 that we have the document and what really needs
13 to happen along with a management of expectations
14 around how long this will take because it's not
15 quick. It's not quick to get where we aspire to
16 be.

17 So I certainly thank you, Mark, for
18 taking the initiative to put that Gantt chart
19 together, and I encourage us to think about how
20 we should -- well, encourage us to incorporate it
21 somehow in a chapter or a section that deals with
22 bridging from -- bridging to real life somehow.

1 Thanks.

2 CHAIR BURMAN: In the audience? Okay.

3 MEMBER HERETH: Did you want to
4 discuss potentially where to put it if it was
5 something that people wanted to use?

6 CHAIR BURMAN: Yes, do you want me to
7 tee it up or do you?

8 MEMBER HERETH: Yes.

9 CHAIR BURMAN: Okay. So my thought is
10 that this is something that is a work in
11 progress. But I think to the extent that it's
12 something for looking at especially as it works
13 through with the technical writers. And to the
14 extent that I see it as somehow being as part of
15 the main report potentially near the end in the
16 components of an effective pipeline safety
17 Voluntary Information-Sharing System at the
18 bottom end. Which is that after folks are
19 reading this, and maybe they have it as different
20 charts that show, all right, so we read all this
21 and now we're looking. And so what do we do with
22 this? What's the time line?

1 And so it may not be exactly in this
2 form. Maybe it'll be a cleaned up version. But
3 it'll give maybe the roles that are played out
4 there. I know yesterday in the audience someone
5 talked about the confusion in trying to follow
6 all the different recommendations and who's doing
7 what.

8 So to the extent that we use this as
9 the blueprint and kind of try to model that so
10 that the charts can show that, this time line can
11 be adapted for that. And to the extent that it
12 fits and works, we can do that and stand it up in
13 the report. And so that's sort of my concept.

14 And to the extent that the technical
15 writers look and say, well, it doesn't make any
16 sense this way. But here's how it does within
17 the framework and not changing the substance. It
18 gives us that. Christopher?

19 MEMBER WARNER: So I may be chasing a
20 wild hare here, but I really like this. Because
21 as you guys have all said, it kind of quantifies
22 the effort and the time and the importance of how

1 to role this out. And I almost wonder if somehow
2 we could work this into the conclusion as here's
3 what we've concluded and here is a possible
4 scenario as to how much time and effort would go
5 in to putting something like this out.

6 So I think it's important enough that
7 when people are reading it, it's one of the
8 things that people often go to. It's just the
9 executive summary and the conclusion. And then
10 it hits them in the face. It's not buried
11 somewhere in the report. So that's my two cents.

12 CHAIR BURMAN: Okay. That's a good
13 thought too. Walter?

14 MEMBER JONES: Again, I'm not sure it
15 fits in neatly with what you're saying. But I'm
16 thinking about what Michael just talked about. I
17 know in my world, normally, if we want
18 legislation or regulation which require the
19 government spending money or industry spending
20 money in order to comply with the rule, we have
21 to say what we want.

22 We want a reduction in injury or

1 fatalities due to this. And we'll state our case
2 on what we think would lead to these reductions.
3 And that's why you need to have a rule there.
4 And then the pushback generally from industry or
5 the public is that, well, how do you know that's
6 going to happen?

7 So then we would have to produce -- in
8 my world, we produce studies saying the risk
9 associated with this leads to a -- and doing
10 these different abatements lowers the risk and
11 lowers the rate of fatalities or injuries in this
12 realm. And we put forward a lot of things.

13 But the pushback is going to be, how
14 do you know it's going to work? Where's your
15 study? Where's your proof that if we spend what
16 I look like will be millions if not billions of
17 dollars setting this up? I mean, if I was on the
18 other side, well, there's no proof that that's
19 going to work. We've had testimony from the
20 folks from FAA talking about how great it is.

21 But I don't know. That's where I'm
22 getting scared now based on what you're saying.

1 Because in my world, we always have -- we have to
2 have tons and tons of studies. And then even if
3 we have the studies, the other side that wants or
4 don't want will not accept the studies all the
5 time.

6 So we're fighting about the validity
7 of your abatement that's going to lead to this
8 reduction because everybody agrees. We want less
9 death. We want less injury. It's just how we're
10 going to go about doing it. And normally -- and
11 I'm just wondering, have we done that?

12 MEMBER HERETH: So one of the
13 documents or sections that we looked at yesterday
14 was the one that was prepared by Randy Parker I
15 believe that was intended to be used as an
16 introduction or preamble.

17 And Walter, I'll have to say I hadn't
18 read it carefully before coming in. But it
19 basically walks through the history of the FAA
20 and the commercial aviation and ASIAs and the
21 achievements they've made and the fact that
22 they're performance plateaued. And then when

1 they went to this Voluntary Information Sharing,
2 then it had a dramatic impact. And it happened
3 at a time when there were a lot more flights were
4 coming along.

5 So I think it gives a very clear,
6 concise story that supports and addresses your
7 concern because it's a very valid concern and
8 those kinds of concerns are arising more and more
9 nowadays. So I think we have to have things like
10 that.

11 I would offer that the best practices
12 section also offers other examples. But Randy's
13 drafting of that one piece about FAA and ASIAs is
14 just very compelling. And I think it addresses
15 your concern. It's not a guarantee, but it shows
16 how it can work.

17 MEMBER COTE: And I agree with
18 everything that Mark said, Walter. But another
19 perspective that's a little different. And I've
20 been on both sides of this equation needing
21 regulation or needing legislation or something
22 and as an advocate. The difference that I see

1 here, though, is very structural. We, this
2 committee, is actually a creature of Congress.
3 We were created because Congress essentially
4 instructed PHMSA to do this.

5 And so our standing is a little
6 different than someone on the outside because we
7 are simply executing congressional will to do the
8 analysis. And assuming PHMSA did a pretty good
9 job in selecting us and I would argue based on
10 our result, it probably did, that that gives us a
11 certain gravitas that isn't likely to exist with
12 third party advocates which I've been most of my
13 career.

14 And so I really see that to be the
15 difference, that along -- and to Mark's part with
16 that sort of fundamental background that this
17 isn't new to the industry. I mean, the nuclear
18 guys did it. The airlines did it. The chemical
19 industry did it, all successfully. So the model
20 has been demonstrated. So just a couple of
21 differences.

22 CHAIR BURMAN: Any comments on the

1 phone? In the audience? Okay. So I think that
2 we have some constructive thoughts on where this
3 is and some takeaways from that. I do think that
4 there's some positive skepticism in this and the
5 need to make sure in the report that we're
6 clearly expressing the urgency as well as the
7 need for this to truly be viable. And also to
8 look at, I think to Walter's point, about the
9 need to have the true data and accountability to
10 prove that it would be worth it from a funding
11 perspective.

12 And so it's not just about pointing to
13 other models but about what that may look like to
14 have that for the sustainability of that funding
15 as well. And that will be important. And for
16 the initial seed money as well, I think that's
17 important. So I appreciate that, and we'll take
18 that to heart. So now, what's our next? We've
19 gone through -- oh, now we're going to go over to
20 the subcommittee. Leif?

21 MEMBER JENSEN: If you could bring up
22 the summary of proposed recommendations, 1213

1 edits from CAT in the business practice. And go
2 to the C-1 recommendation. And while they're
3 doing that, just three high points with respect
4 to the homework that this committee had.

5 We did the advice from the audience,
6 I believe it was Erin, and modified each
7 recommendation so it says this CAT subcommittee
8 recommends to a particular party and then what
9 the recommendation is to add clarity. And in all
10 of them except for one, it starts off by saying,
11 the CAT subcommittee recommends that the VIS
12 executive board author and in this case job
13 descriptions. So in C-1 that was the only
14 modification that was made.

15 In C-2, the modification was made per
16 Dan's perspective that if we're going to identify
17 specific technology for transmission and liquid
18 pipelines, that we include assessment
19 methodologies used in the distribution world. So
20 in-the-ditch assessment certainly applies and
21 other methods that they followed. So be
22 inclusive of distribution. And then further

1 down, if you scroll down a little bit on P-2, I
2 talk about direct assessment.

3 So move on to C-3, no change there
4 other than the first language. And yesterday, we
5 did add that, per Chris' perspective, that
6 training and evaluation process. So that was
7 incorporated.

8 C-4 is a little different. And what
9 I'd like to do is reflect on -- and I did this
10 yesterday. I'll do it again but very brief
11 today. This recommendation or series of
12 recommendations closely mirrors the SMS
13 competency, awareness, and training.

14 But the "A" in competency, awareness,
15 and training in SMS, the awareness aspect talks
16 about a couple of different elements within SMS,
17 specifically the way it reads is training shall
18 include refresher training and raising awareness
19 where executing the safety assurance, which is an
20 element, and continuous improvement sub-elements
21 reveal opportunities to improve processes and
22 procedures.

1 But the awareness in SMS is kind of
2 internal to SMS where it recognizes that there
3 are elements within safety management that need
4 to feed back to training. The "A" in VIS for
5 competency, awareness, and training is more
6 focused on marketing this and trying to woo other
7 operators to participate.

8 And so the recommendation now starts
9 out by saying the CAT subcommittee recommends
10 that PHMSA and the VIS executive board develop
11 education materials. And I thought about adding
12 trade associations because trade associations and
13 even labor have a huge venue and a very large
14 audience in which to advertise this. But I don't
15 believe trade associations I listed as a specific
16 stakeholder in the mandate. Labor is, so there
17 may be an opportunity for the labor organizations
18 to be added to this. So food for thought.

19 And then further on in C-4 I added,
20 like I mentioned before, direct assessment and
21 DIMP. And then I made the connotation that it is
22 a Section 10 mandate identified in Part B under

1 Section 4. And I think that concludes the
2 homework for this subcommittee.

3 CHAIR BURMAN: Great. Does anyone
4 have any comments or questions at the table? On
5 the phone? Dan?

6 MEMBER COTE: Just a more broad
7 comment. And Leif, thank you for those
8 insertions. In my mind, sort of pointing
9 directly at very distribution related
10 functionalities will only help us in this and
11 communicate to the people that read it that this
12 is inclusive.

13 And just a question for the committee.
14 I'm wondering if we shouldn't have that same
15 level of inclusion either in the best practices
16 or process sharing. In other words, specific
17 references to distribution type technologies or
18 information units that will be valuable to
19 gather. Because again, we've been pretty subtle
20 in this in describing various broad based
21 information technologies. But most of the
22 specifics have been centered on transmission.

1 And so I'm just wondering if we're --
2 I'm concerned that we're going to be so subtle.
3 And with all the discussion, we all know what it
4 means. But the people reading it will not and
5 not see those references to specific distribution
6 methodologies for evaluating risks. And in my
7 mind, that's really, really important in the
8 context of this.

9 CHAIR BURMAN: Okay. Mark?

10 MEMBER HERETH: Can I make a -- so
11 Dan, that's a really important point. Can I make
12 a suggestion that we either box or footnote that
13 concept maybe one time in the very beginning and
14 then build it in where it makes sense? But it's
15 an important enough point that we should make it
16 early in the document that, for example, when we
17 say integrity assessments, we don't just mean
18 transmission integrity assessments. We mean
19 distribution as well.

20 And I think if we would make that
21 point either in the introduction or the scope
22 that it'll address your concern. And we might

1 even want to put it in a box in a way that it's
2 highlighted so that it's prominent.

3 MEMBER COTE: I would welcome that.
4 And thank you, Mark. I appreciate that. I'm not
5 sure how we capture that, Madam Chairman. But
6 again, a critical concept.

7 CHAIR BURMAN: Okay. All right. I
8 think that's important, so we will figure it out.
9 Okay. Does anyone disagree with that? I mean, I
10 think that's a fair point. On the phone? In the
11 audience? Okay. Now we'll turn to Randy.

12 MEMBER PARKER: Thank you for your
13 patience, Madam Chair and the committee.
14 Christie, do you have the email that I sent you a
15 moment ago with the -- okay, great. Okay. What
16 you have here is a revised set of the six
17 recommendations from the RFL Subcommittee. But
18 unfortunately, for some reason last night and
19 this morning, I could not get it to bring the red
20 lines out. And I tried doing a compare sitting
21 here at the table. It didn't work.

22 So what I'm going to suggest is that

1 I just go through it and highlight for you where
2 things have changed. There are very few changes
3 in R-1, 2, 3, 5, and 6. But R-4 has a number of
4 changes that are significant. But let's start
5 with Recommendation No. 1.

6 The only change really that was made
7 here was in the first paragraph when we talk
8 about a Voluntary Information-Sharing System for
9 the purpose of encouraging the voluntary sharing
10 through the VIS of pipeline safety information.
11 And in the previous version, it said by pipeline
12 operators. And we changed it to among pipeline
13 operators. And we've capitalized pipeline and
14 operators and made it a defined term.

15 And there's a footnote there where you
16 go down to the bottom and you'll see. The
17 footnote says, add the defined term pipeline
18 operators and define it as operators of natural
19 gas transmission, natural gas distribution, and
20 hazardous liquid pipelines. But we don't have to
21 do that necessarily in RFL recommendations. But
22 we need to do it somewhere in the report,

1 probably at the beginning of the report. Yes
2 sir?

3 MEMBER HERETH: 1173 has the
4 definition of that term.

5 MEMBER PARKER: Does it?

6 MEMBER HERETH: Yes.

7 MEMBER PARKER: Same definition?

8 MEMBER HERETH: It's a very --

9 MEMBER PARKER: Similar?

10 MEMBER HERETH: -- very simple
11 definition.

12 MEMBER PARKER: But it would cover --

13 MEMBER HERETH: I would encourage you
14 to use -- I'm going to say this at the end. But
15 I would encourage us where we can use 1173 with
16 terminology. We had 599 comments from the public
17 and from operators. And so that was vetted very
18 heavily. And so where we can use terms that are
19 already defined, I would encourage us to do that
20 because it's been through a lot of vetting.

21 MEMBER PARKER: Mark, I agree
22 completely with that. As a matter of fact, that

1 was on my to-do list is to try to go through
2 there and see if we can conform to 1173. So it's
3 a big task, but it's worth it for clarity. I
4 think that's the only change in Recommendation
5 No. 1.

6 If you move to Recommendation No. 2 --
7 and by the way, I will send out a red line so
8 that all of these changes are clear. I just have
9 to figure out why my software won't do it. On
10 Recommendation No. 2, we changed the title to
11 simply disclosure of VIS information. Hold on
12 just a second. Recommendation No. 3 did not
13 change. Recommendation No. 4 was changed in a
14 major way. Question?

15 MEMBER MAYBERRY: Hi, Randy. I had
16 just a question really going back to the first
17 one. And pardon me if it was talked about
18 already and I was perhaps in a meeting -- one of
19 my many meetings. But that does limit us.

20 And just knowing how we're going to
21 live by this forever until it can be changed, if
22 we find that it does need to be changed, should

1 we include among pipelines gathering or even LNG?
2 Would it hurt -- even though I think initially we
3 probably would stand it up, we're going to walk
4 before we run and it probably wouldn't including
5 things like LNG. But should we make it a little
6 more encompassing?

7 MEMBER PARKER: I think that would be
8 a great idea. Mark, do you recall if 1173's
9 definition includes LNG facilities and gathering
10 --

11 MEMBER HERETH: Yes, and actually, I
12 saw revisions in a document that I think you all
13 made yesterday that changed it to regulated
14 gathering -- regulated pipelines.

15 MEMBER PARKER: Regulated pipelines --
16 regulated energy pipelines.

17 MEMBER HERETH: So I think we just
18 need to make sure we're consistent in that use of
19 that terminology.

20 MEMBER PARKER: No, but Alan, that's
21 a great idea. We want it to be inclusive and
22 wide open so that later if we want to include

1 other data or information, we can do that.

2 MEMBER HERETH: And it did include LNG
3 as well. And I don't remember where it was, but
4 I remember seeing that specifically laid out.

5 MEMBER PARKER: Okay. We'll work on
6 that. Michelle, would you keep notes on what I'm
7 supposed to do? Thank you.

8 MEMBER PERRY: Since we are going back
9 to 1 --

10 MEMBER PARKER: Yes.

11 MEMBER PERRY: -- I do have another
12 comment on it that I just wanted to make sure
13 that because this is going to be there, it's kind
14 of the first thing people will see. You talk
15 about the kind of list of who's going to be
16 involved. And non-governmental organizations is
17 thrown in there which I don't think that's
18 anywhere else in the document. And also I don't
19 see public safety advocates because we talked
20 about that as an important denoter of actual
21 entities that should be included.

22 MEMBER PARKER: Yes, that was an

1 oversight. We definitely intended to put that in
2 there. But on non-governmental organizations,
3 you're right. This was the only place it's
4 mentioned. So I'll take --

5 MEMBER PERRY: And that refers to
6 something important, then --

7 MEMBER PARKER: Right.

8 MEMBER PERRY: -- use it. But I'm not
9 sure what it means.

10 MEMBER PARKER: NGOs or just non-
11 governmental organizations of various kinds. But
12 I'll take opinions from people as to whether we
13 should include that. Anybody got any ideas?

14 MEMBER HERETH: I just remember that
15 -- so I think Simona's point about public safety
16 representatives is a good one. I think that Kate
17 Blystone actually we had a discussion in one of
18 our meetings about representatives of the public
19 that would capture legislatures, local officials,
20 something along those lines. And I've seen that
21 phrase used elsewhere in a document. But I think
22 certainly we need to have the public safety

1 representatives.

2 MEMBER PARKER: Public safety
3 advocates, right?

4 MEMBER HERETH: Or -- yes.

5 MEMBER PERRY: Right. And I think we
6 just want to be consistent, right?

7 MEMBER HERETH: Yes.

8 MEMBER PARKER: Correct.

9 MEMBER PERRY: And this looks like a
10 different list. So we want to make sure it's
11 consistent.

12 MEMBER PARKER: Right. Let's make it
13 consistent. Dan?

14 MEMBER COTE: And because -- and I'm
15 recommendation is could we -- because it appears
16 nowhere else. And I don't see it adding anything
17 to this. Take out non-governmental
18 organizations. Public safety advocates and other
19 pipeline stakeholders seems to me to cast a
20 plenty wide net.

21 MEMBER PARKER: Right. I think that's
22 a good decision. Okay. Simona, anything else on

1 No. 1? Let's move to Recommendation No. 4 which
2 was quite controversial and led to a lot of
3 discussions yesterday. And just as an overview,
4 I'll just say that what I've done here and I will
5 admit that I did not go to all members of the RFL
6 subcommittee just because we didn't have time. I
7 did this last night. So if people feel like this
8 is the wrong move, let's talk about it.

9 But I removed the corrective action
10 feature of this particular protection because
11 it's very confusing to people. Even if you
12 renamed it as a mitigation plan or something,
13 it's very confusing about how that document
14 relates to future inspections or questions from
15 PHMSA and what PHMSA is supposed to do with that
16 document.

17 Instead, we just drop that concept and
18 just provided for straight protections for these
19 types of information that people will voluntarily
20 put into the VIS. And just by way of a list
21 included ILI, NDE, and confirmation data and
22 information, near misses, close calls, non-

1 reportable releases, non-reportable, unusual
2 events or conditions.

3 And I know that the thinking behind
4 the RFL Subcommittee was, look, these are the
5 things that are very important, especially near
6 misses and strange things that happen which
7 aren't reportable.

8 So most operators are not going to
9 tell anyone about stuff that's not reportable
10 unless they have to. And they would worry in a
11 VIS world that even though it's not reportable
12 and we're still not going to put it in there
13 because somebody might use it against us later or
14 might see in the statistics that it might be us
15 if they didn't de-identify it right.

16 So there's some fear that even if
17 you're reporting a near miss that's not required
18 to be reported or investigated by PHMSA, you
19 might have a problem with either PHMSA or a
20 litigator. So the idea here is to give
21 assurances to people to encourage them to report
22 these kinds of things so that they're not going

1 to be worried and lose sleep over enforcement or
2 other punitive actions.

3 And then this sentence right after
4 that talks about the protections described above
5 are not intended to limit PHMSA or other parties
6 from pursuing adverse actions based on facts
7 established independent and separate from the VIS
8 process. Pardon? Yes, we're defining it as
9 enforcement action, punitive action, or
10 civil/criminal litigation, fines, or civil
11 penalties. Those are adverse actions.

12 So what we're saying is that PHMSA and
13 other parties can pursue their rights if they
14 establish all those facts independently. We just
15 don't want them trying to get those facts out of
16 VIS or use what's been submitted voluntarily to
17 VIS. And that's the real protection that we're
18 seeking here. Dan?

19 MEMBER COTE: Having been involved in
20 these discussions on this particular section from
21 the beginning, this is a bit of a strategy
22 change. And I just want to point it out because

1 the original concept of this was if you as an
2 operator joined VIS and faithfully reported
3 things like near misses and if you had an event
4 that could constitute an NOPV and you reported
5 it, created a remediation plan for it, and
6 executed that remediation program.

7 Even if an inspection which would met
8 the provisions that are not intended facts
9 established independently. So if someone showed
10 up three months later for an inspection and
11 established the facts independently if you had an
12 NOPV, you would still not be penalized.

13 And so what we are doing here is
14 removing that protection that we had discussed
15 any number of times before and sort of reached
16 consensus on because it was a way to incent
17 people to report. Just so we're all clear, we
18 are removing that incentive.

19 And I would be remiss if I didn't say
20 my thought is and my strong suspicion is by
21 removing that incentive, because right now there
22 isn't trust between the industry and PHMSA, there

1 will not be trust in the system until it's been
2 alive for a while.

3 And so operators who just plain get
4 caught in an inspection three months later will
5 never be convinced that their enforcement
6 officers did not have access to VIS. And if that
7 got around the industry, frankly we're dead. And
8 so quite honestly, I believe that strategy change
9 is a mistake for those reasons.

10 MEMBER PERRY: This goes to language.
11 Is adverse actions used in other industry
12 documents as a way to talk about enforcement?

13 MEMBER COTE: No, I mean, it's really
14 called enforcement actions generally.

15 MEMBER PERRY: Because I believe that
16 it's adverse to the industry. Adverse doesn't
17 necessarily -- I mean, it wouldn't be adverse to
18 other parties that actions are taking place. And
19 so be careful. I would just say be careful
20 because of our multiple audiences using that term
21 adverse actions. It's adverse to the industry
22 but not for others necessarily. So maybe we

1 should use another term. That's my --

2 MEMBER PARKER: Well, I think the term
3 adverse actions is used in cases where you're
4 trying to include civil, criminal litigation,
5 regulatory penalties, agency actions or civil
6 litigation. So it's what we're trying to do is
7 reassure pipeline operators that if you put this
8 information in here, you're not going to get
9 sued. You're not going to get enforced against
10 based on what you put in there. So you wouldn't
11 -- no one else would get adverse action other
12 than pipeline operators from --

13 MEMBER PERRY: Right, because it's
14 kind of an -- so there's an assumption being made
15 even if you don't mean to make it here by others
16 reading it that those are all bad things. And
17 that will be perhaps misconstrued in the public
18 realm that, oh, so all enforcement is bad. I
19 don't want that misunderstanding to take place.
20 I'm trying to prevent that. So that word might
21 be a trigger to that miscommunication. And maybe
22 if it's more explicit about what the actions are,

1 not that word "adverse". Just a language tweak.

2 MEMBER PARKER: What would you
3 recommend?

4 MEMBER PERRY: Yes, enforcement or
5 litigation actions --

6 MEMBER PARKER: Well, that doesn't
7 include --

8 MEMBER PERRY: -- to pipeline --

9 MEMBER PARKER: -- the full --

10 MEMBER PERRY: Then whatever it all
11 includes. Whatever adverse actions you're
12 referring to, name it I think is what I'm saying.

13 MEMBER PARKER: They're all named in
14 here. So you could --

15 MEMBER PARKER: Then maybe taking
16 adverse actions --

17 MEMBER PARKER: -- drop adverse
18 actions altogether and not have the convenience
19 term -- the capitalized term.

20 MEMBER PERRY: You are but you're also
21 going to lose the communication. It will be
22 taken out of context. I will. It'll be, oh, the

1 industry is avoiding all of these adverse
2 actions. It's adverse to them. I think the
3 piece about making sure that -- I think it
4 reduces your justification for what you're trying
5 to do by adding that word because you're going to
6 lose people. I mean, that's my perspective.
7 Also, that's the public perspective on what that
8 would mean.

9 MEMBER PARKER: We don't need the
10 word, that's for sure, because it's just a
11 convenience to describe that basket of really
12 adverse things that could happen. But I don't
13 know that I agree with your reasoning because
14 when you talk about civil or criminal litigation,
15 your reasoning would say that the public is going
16 to say, look at these pipelines. You're trying
17 to avoid being sued or having criminal cases
18 against them. I mean, it is what it is. We're
19 saying we're going to give this protection to
20 stuff that you put in the VIS.

21 MEMBER PERRY: Right, yes. Reading it
22 out of context and people take things out of

1 context. Well, but people will. They will. The
2 public does all the time.

3 MEMBER HERETH: With all due respect,
4 one of the essential applications of this report
5 has to be that it's taken in context.

6 MEMBER PERRY: I agree. I just don't
7 want it to be caught up in the words because
8 people will. And you're saying the same thing.
9 Just not using that word. So it's --

10 MEMBER PARKER: I'm okay with taking
11 the word out if everyone else is. I'll leave it
12 to the committee. It's not a big deal. It was a
13 typical drafting move to have an abbreviated
14 term.

15 CHAIR BURMAN: I am very cognizant of
16 the fact that you are concerned and you have been
17 from the beginning on folks taking things out of
18 context. I do want to put a boiler plate comment
19 somewhere in the report about the need for folks
20 not to take things out of context because there
21 is a need to read the entire report. And so we
22 can figure out the language.

1 But I do want to put somewhere some
2 caveat that language is important and that people
3 should not take something and read it out of
4 context. And I'm thinking of some language I've
5 seen before in that because I do know that people
6 will look for that one sentence to say, see,
7 there, on either side.

8 And it's important to me to address
9 that issue because I do want us to be looking at
10 this with that sensitivity because while I do
11 appreciate you looking and saying people will
12 take this out of context. We have to look at
13 this in the whole as well.

14 And so it worries me if we're going to
15 say, well, they're going to take this out of
16 context. Therefore, it's -- while we should be
17 seeing it and making sure we're being very clear,
18 it is important that we try to be clear in the
19 intent of the whole.

20 MEMBER PERRY: Right. I just wanted
21 to clarify. But I believe that it's not only the
22 taking out of context. I believe it dilutes the

1 argument the industry has about their
2 protections.

3 CHAIR BURMAN: Right, right, right.
4 Okay. And so people did have their cards up. I
5 lost track, but I always defer to Alan first. So
6 we're going to go to Alan.

7 MEMBER MAYBERRY: I've got to go to
8 one of my meetings. But was enforcement too
9 limiting on that, enforcement actions? I'm just
10 trying to think, going back to what we're trying
11 to accomplish here. It's really you have the
12 non-punitive component. There's the key to
13 success with the other entities that had success
14 in implementing this like the FAA.

15 So is enforcement too limiting? I
16 think we have the disclaimer below that that says
17 it doesn't apply. And I think we know what we
18 want. It's just getting the words that people
19 will read that -- you know.

20 MEMBER PARKER: Right, I'm looking up
21 at the top where it talks about nor any entity or
22 person shall initiate enforcement action,

1 punitive action, or civil-criminal litigation or
2 seek or file a civil penalty. Is that what
3 you're talking about, the punitive word? Or is
4 there something you would propose that would be
5 broader?

6 MEMBER MAYBERRY: Or the actions
7 described above. Pursuing actions described
8 above or something like that. I mean, okay.

9 MEMBER PARKER: This is an important
10 recommendation, and I think we should -- I
11 circulate a red line. But we should really take
12 the time if someone has second thoughts on any of
13 this and work on the language.

14 MEMBER MAYBERRY: We can get a legal
15 read on that too. But I mean on the PHMSA. I'd
16 be more comfortable.

17 MEMBER PARKER: We should.

18 MEMBER COTE: Alan, may I ask a
19 question here? Since you raised the issue, I
20 seem to recall and I want to make sure I get
21 where I can characterize what you said in a prior
22 meeting on this subject.

1 Just to be clear, the discussion that
2 I thought we had when we talked about this once
3 before was if your inspectors today went out and
4 found an operator who was concurrent on
5 compliance and found a noncompliance member a
6 month before, put an action or a series of
7 actions in place that were adequate to address it
8 and were executing their own plan, you probably
9 wouldn't cite them anyway.

10 You might issue a letter of warning.
11 You might say, make sure you close that up and
12 report to us. There were a number of non-
13 punitive actions you might take. But that it
14 would almost -- if they were showing good faith,
15 you probably wouldn't cite them. I don't want to
16 put words in your mouth, but I thought that was a
17 section of the discussion we had.

18 MEMBER MAYBERRY: No, that is. But I
19 also recall too at a prior meeting that -- and
20 this is where we're threading a needle here.
21 We're not setting up a get out of jail free
22 system. We have our system of oversight that

1 will remain. And I can see the need to be very
2 careful because we don't -- I mean, we're setting
3 up a VIS system. It's designed to do just that.
4 And it's designed so to encourage use to have
5 that non-punitive component for information
6 that's provided to it.

7 I think you've covered that or we've
8 covered it elsewhere regarding if you do have a
9 plan to address the issue that was found and
10 reported here.

11 MEMBER COTE: Well, I'm just concerned
12 about the language change, that last language
13 change --

14 MEMBER MAYBERRY: That last --

15 MEMBER COTE: -- no longer reflects
16 it. That's what I think we lost and that is a
17 concern.

18 MEMBER PARKER: I'll say that the
19 reason I took it out, Dan, is because I got so
20 much pushback yesterday on that provision. I
21 heard a lot of people around the table say, that
22 doesn't make sense what you're doing here. You

1 say you're going to do "A" but you're really
2 doing "B". So I wanted to give people a chance
3 to see what it would like without the corrective
4 action good faith effort by the operator and
5 whether the absence of it would please everyone
6 or would they rather put it back in.

7 I personally favor it because I think
8 it's a way to have the operators get more
9 involved in reporting things they normally would
10 keep quiet. But knowing that if they document it
11 well and show that if there's anything wrong, in
12 many cases, there won't be anything wrong. It's
13 just a near miss. But if there's something wrong
14 that needs to change in their procedures or
15 whatever, that they'll be involved in that and
16 it'll be on their desk if PHMSA comes to call and
17 it'll be a good way to communicate about these
18 issues.

19 So my personal view is to put it back
20 in. But if we put it back in and we can't get
21 consensus, that's worrisome.

22 MEMBER COTE: Understand. But all I

1 would add is those are going to be some of the
2 critical learnings of places operators may be
3 noncompliant in a way or haven't fully thought
4 through a process. And when it gets highlight
5 through someone else through VIS, they all say,
6 hey, I've got that problem. I mean, and so those
7 are critical learnings that we're going to
8 concede we're probably not going to get if an
9 operator feels in any way exposed.

10 And there's already protection further
11 on that we inserted yesterday. And when I say,
12 protections, protections against abuse which was
13 the language that Dr. Perry had changed and I
14 think we all agreed was a great idea. So I
15 thought we had threaded that needle pretty darn
16 well yesterday. So I mean, I would be an
17 advocate for putting it back.

18 MEMBER PARKER: Okay.

19 MEMBER COTE: Thank you.

20 MEMBER PARKER: Leif?

21 MEMBER JENSEN: Thank you. Leif

22 Jensen, Sunoco Pipeline. I was part of the

1 dialogue to add the corrective action language
2 partly because of the notion around the table
3 that this shouldn't be a get out of jail free
4 card. And to put pressure on the operators if
5 you have an issue, by golly, put together a
6 corrective action plan or a remediation plan and
7 take action.

8 I recognize it may need to go away.
9 But I offer this thought, Alan, just as a notion
10 just to think about. PHMSA has a process whereby
11 they calculate a civil penalty. And whether an
12 operator is egregious or levels less magnitude of
13 egregious violation. But in there is also
14 somewhat of a credit if indeed an operator
15 notifies PHMSA, self-reports so to speak.

16 So there might be an option down the
17 road. I'm not suggesting we edit here that if
18 indeed an operator is part of a VIS and has
19 submitted data as it relates to a particular
20 incident, that there may be some form of
21 enforcement or civil penalty credit to diminish
22 the magnitude of a civil penalty enforcement.

1 MEMBER MAYBERRY: I think that's part
2 of probably another conversation on other options
3 for enforcement.

4 CHAIR BURMAN: I wonder if there's
5 some -- I mean, I understand what you're saying
6 in many ways, Dan, right, is that you don't want
7 to chill people going to the VIS. But on the
8 other hand, if it's truly independent, it really
9 should not be something that is perceived as a
10 get out of jail free card which you're saying it
11 shouldn't be.

12 And so it does need -- where PHMSA, if
13 they see that there has value, they should have
14 the flexibility to say, we are going to allow
15 this through a VIS system. But they're not even
16 going to know that it's through that system. So
17 they're almost hamstrung.

18 I can see that that's part of also
19 what the executive board is going to need to work
20 through like the FAA which doesn't take certain
21 things that would normally is already in an
22 ongoing process or would've been identified

1 through that audit process or the enforcement
2 process, right?

3 So I mean, that's part of the issue is
4 that when you're coming to us, this is going to
5 get dinged in that audit process or in that
6 enforcement process. So this isn't appropriate
7 for here.

8 MEMBER COTE: I guess I'm saying two
9 things, Madam Chairman. The first one is that
10 there will be -- at the inception of VIS, there
11 will be little trust that somehow, someday,
12 either state or federal inspectors would not have
13 access or hear about it somehow. That won't
14 exist.

15 And as a result of that not existing,
16 the default for operators will not be to take the
17 risk and not report which is a critical failure
18 because these will be some of the most important
19 learnings we could realize. A place where
20 someone may not be quite compliant. They
21 identified it. They're correcting it. Other
22 operators likely to have it. So that's the first

1 point. I guess the second point --

2 CHAIR BURMAN: Wait, can I stop you?
3 You're assuming that the only way they're finding
4 out is because they reported to VIS.

5 MEMBER COTE: Well, it could
6 absolutely be coincidental. But what I'm saying
7 is, again, think about that operator who for the
8 first time reported or joined VIS six months ago
9 and says, okay, I'll report. He reports three or
10 four things and six months later an inspector
11 finds out and says, ah ha, your critical valves
12 were out of compliance. You reported it. You
13 found it. You're underway correcting it. But
14 I'm going to cite you.

15 And particularly at the state level,
16 that may or may not actually happen because every
17 state does not use the guidelines that Alan
18 referred to. Well, hold on. Wait a minute. Let
19 me just finish, Walter. Give me one more minute.

20 CHAIR BURMAN: But Dan, that would be
21 illegal under the law if they went after them
22 from the information they got from VIS.

1 MEMBER COTE: No, no, no. Yes, but
2 here's the point, Madam Chairman, that it may
3 have entirely been coincidental. There will
4 never be a way to prove the negative that I
5 didn't get it from VIS. The operator will
6 believe that they did get it from VIS because
7 there was a relatively short time.

8 It could be entirely coincidental.
9 And then the operator will go back to his
10 industry associations and say, fellas, that
11 doesn't work because I got grabbed four months
12 after the first time I reported. And you will
13 chill it.

14 MEMBER JONES: Well, how would the
15 enforcement officer know whether that's true?
16 because I would just say everything you just
17 cited me on we sent to VIS --

18 MEMBER COTE: Well, exactly.

19 MEMBER JONES: -- three times because
20 there's no way for you to find out whether I
21 actually did it.

22 MEMBER COTE: Which brings me to the

1 second point. The behavior that we want to
2 encourage in the industry, any time an operator
3 finds a problem, we want them to fix it whether
4 or not an enforcement officer --

5 MEMBER JONES: That's currently true.

6 MEMBER COTE: -- shows up or not.

7 What's that?

8 MEMBER JONES: That's currently true.

9 MEMBER COTE: Well, that's right,
10 exactly. But this is a way to continue to build
11 the culture and encourage it.

12 MEMBER JONES: How would the
13 compliance officer know that you're telling me
14 the -- like, how would I know you're telling me
15 the truth?

16 MEMBER COTE: I would certainly -- you
17 mean in terms of the truth that there was a
18 report made.

19 MEMBER JONES: Yes, how would I know
20 that? I can't get it from the board. I can't
21 get it from VIS. I can't get from data analysis
22 team. All I know is you're telling me on this

1 date you submitted it to VIS. There's no way for
2 me to back that -- to find out whether that's
3 true.

4 MEMBER COTE: That's a fair point.
5 And at the same time, I mean, I certainly
6 wouldn't object to someone being able to simply
7 verify that data. Did they turn in a report?

8 MEMBER JONES: I'm just saying that
9 just --

10 MEMBER COTE: I understand.

11 MEMBER JONES: -- there's no way.
12 We've set up these firewalls. And if I was
13 dirty, I would say everything that was reported
14 and see what's going to stick and what's not.
15 I'm just saying. I'm not saying you guys. I'm
16 saying I am.

17 (Laughter.)

18 CHAIR BURMAN: Let's hear --

19 MEMBER PARKER: Walter just self-
20 reported.

21 (Laughter.)

22 CHAIR BURMAN: Let's hear from -- Mike

1 has had his card up for a while, Mike, Mark,
2 Alan. And thank you. This is a good discussion.

3 MEMBER LAMONT: Yes, Mike LaMont.
4 Yes, I think that's a fascinating discussion by
5 the way. And I don't think do we mean to give
6 protections to things that are discovered by a
7 regulator. I don't think that's our intent,
8 right?

9 MEMBER COTE: That was our intent.

10 MEMBER LAMONT: And then I do think
11 that auditors need the means to verify, that
12 things have been submitted to VIS. I think we
13 need to account for that. I think that's really
14 important.

15 And just one editorial comment is that
16 we reference specifically non-reportable releases
17 elsewhere in the document. We say reportable --
18 lessons learned from reportable releases. So we
19 need to be consistent there.

20 CHAIR BURMAN: Just a point. I do
21 believe that there may be an opportunity for if
22 something is in the VIS that then is somehow

1 discovered. Though, again, if it goes in, it's
2 supposed to be not discoverable. But if it's
3 discovered somehow by the regulators, that
4 they're going to be able to say, okay, well, it's
5 there so we're going to let it be there. And
6 maybe there's some flexibility in that. I don't
7 know how to word that, but that could be built in
8 rather than grabbing it. But again, it's
9 supposed to be able to go into the system so that
10 it's not discoverable. Mark and then Alan.

11 MEMBER HERETH: I actually see --
12 well, maybe it should go to Alan because I see a
13 bunch of hands out in the public that I think I
14 could help us in this regard including --

15 CHAIR BURMAN: Okay.

16 MEMBER HERETH: -- the distinguished
17 representative of the state of New York, APGA,
18 and AOPL.

19 CHAIR BURMAN: Okay.

20 MEMBER MAYBERRY: Actually, I wouldn't
21 mind hearing from them as well because I was
22 going to provide a solution for that.

1 CHAIR BURMAN: Okay. Why don't we go
2 to the audience.

3 MR. STODY: Hi, John Stody from the
4 Association of Oil Pipe Lines. On the debate
5 about enforcement action, I looked up at the FAA
6 program regs and I have them before me. The term
7 that they use is legal enforcement action.
8 That's the way it was specified. And FAA, we
9 started this whole thing a year and a half ago
10 with that combination. I thought it would be
11 good for us to get back there in their policy
12 where they set out the program addressing
13 noncompliance is their words.

14 The FAA believes that aviation safety
15 is well served by incentives for operators to
16 identify and correct their own instances of
17 noncompliance and to invest more resources in
18 efforts to preclude their occurrence. A civil
19 penalty has always been considered a means to
20 promote compliance with FAA's regulation and not
21 an end in itself.

22 So there you talk about, yes,

1 enforcement is a tool but it's not the end.
2 We're not here to count enforcement action.
3 We're here to count safety. And the other
4 metaphor we've used because it's familiar so it's
5 understandable, a get out of jail card. And we
6 can all agree that that's an undesirable thing.

7 But the situation we have to remind
8 ourselves is no one is in jail. These are things
9 that no one knows about. They're going on out
10 there as we speak. And PHMSA may never know
11 about. And if they were to find out about it
12 independently through an inspection, we've
13 already covered that. So the question before us
14 is how do we handle things that we'll never know
15 about and is it better to start knowing about
16 them so we can bring them in and fix things?

17 Now the last point I'll make is the
18 question was, well, how do we avoid abuse of the
19 system? Well, we just start turning in multiple
20 submissions. And we're a serial bad actor and we
21 gain this system. Well, the FAA program has a
22 provision we haven't thought about it here. We

1 might consider approving it where it prohibits
2 repeat offenses from being submitted.

3 So that is one way that it would
4 prevent someone coming back and back and back.
5 There's other metaphors, three strikes, you're
6 out or whatever. But if you do it once and get
7 it corrected, then that's the situation we can
8 live with because we saw the higher safety
9 benefit.

10 If it's a repeat occurrence, then the
11 FA program prohibits that use of this for that.
12 So that may be a way to limit abuse, gain the
13 benefits of safety, and recognize those were
14 additional benefits from something that we
15 wouldn't have known about otherwise.

16 MS. KURILLA: Hi, Erin Kurilla, APGA.
17 Just sitting here listening to Dan talk and
18 thinking through a very real scenario which could
19 be an operator becoming a skeptic due to an
20 independent discovery of an item that they did
21 submit to the VIS. I do think that that's a
22 reality. If we don't set up some sort of

1 protection against that, a definite reality.

2 But I also think that if we look,
3 APGA's members are not -- I mean, in essence, not
4 regulated by PHMSA. They're regulated by the
5 states in which they operate. And I can tell you
6 ask I've gotten to know them that each and every
7 state is unique. And many already view pipeline
8 safety and pipeline safety compliance as a
9 partnership with the operators in those states.

10 And I think as powerful as a
11 protection could be, just as powerful could be a
12 relationship between the operators submitting to
13 the VIS and those regulators. And I think what I
14 foresee happening over the next ten years if all
15 of this is successful is creating a community of
16 practice or whatever we want to call it, a
17 community of early adopters.

18 And there will be states that will
19 move along quickly and say, even though there's
20 no protection written into legislation, I as a
21 state regulator believe I would like to encourage
22 you to submit to the VIS and therefore I can make

1 the decision that I'm not going to do something
2 punitive if you submit it. And that's always
3 open to them. There's always a possibility for
4 regulators to decide not to fine and enforce.

5 And granted, I know I'm kind of
6 leaning towards one side which is the regulatory
7 actions versus legal actions that could happen.
8 But I guess I got to a point where I am worried
9 about what Dan is worried about. But I think
10 that we can be successful in other -- at least on
11 the regulatory side through other avenues than
12 the legislative mandate to not be punitive. I
13 don't know. That's my thoughts. Someone else
14 had a thought? Are you good?

15 MR. SPICER: Hi, Kevin Spicer from New
16 York. And I really don't want to kick a hornet's
17 nest. But I think I just might by these
18 comments. I'm hearing so many different things,
19 right? And the way I understand this working is
20 that the information that would be available to
21 me as a regulator, I'm not going to be able to
22 tell who the operator was. So I think the

1 compliance aspect that you're worried about or
2 the enforcement aspect, I just don't see it.

3 I guess the other issue I have is that
4 you're saying this information would be
5 beneficial to operators yet I'm not going to
6 report it because I'm afraid of an enforcement
7 action. Just I see that as what's giving the
8 industry a bad name. And maybe you're trying to
9 take care of it but you're getting focused on the
10 enforcement part of it but not allowing yourself
11 to take care of it.

12 MS. KURILLA: If I can offer, Dan and
13 Chairman Burman, is that I think what Dan is
14 trying to say is that operators are going to take
15 care of it no matter what. The question is do
16 they submit for others to know about it. And I
17 also think C.J. actually said it yesterday that
18 if you don't document it, you didn't do it. So
19 there will be some mechanism for operators I
20 think to show that they did make a submission to
21 VIS.

22 I think the anonymity aspect is

1 outward facing from the operator. But I would
2 imagine any operator submitting anything to the
3 VIS is going to have something that says, yes, I
4 press the button submit.

5 And that's the documentation to prove
6 if we move forward with a non-punitive piece
7 there to say, okay, you found it independently.
8 Here's my documentation that shows you that I
9 actually submitted this. Now let's talk about
10 what that means from an enforcement and
11 regulatory perspective.

12 MR. SPICER: And I would say that, and
13 I can speak for us, not for PHMSA, not for our
14 state. When we find a violation, I'm convinced
15 that a lot of this stuff that our inspectors
16 would find with a normal course of auditing.
17 That's number one. But when we find a violation
18 and the company has taken corrective action. Say
19 they're ahead of the game. They've taken
20 corrective action. It absolutely plays a role
21 into determining if there will be a fine and if
22 there is a fine, what the fine will be.

1 CHAIR BURMAN: Okay. I think that
2 closes the audience comments. Alan? Put on your
3 mic.

4 MEMBER MAYBERRY: I was just trying to
5 find a -- based on notwithstanding what was
6 talked about here. I think -- okay, I'm reminded
7 we're not trying to design the system here first
8 off. But in trying to describe this attribute, I
9 heard legal enforcement action was what FAA did
10 based on what John stated -- was saying back
11 there.

12 There are a variety of ways to say
13 this. Maybe we should just take this and refine
14 it. If we can't come to closure right here, we
15 can talk to our attorneys. I mean, one other
16 thought I had was just authorized. It can limit
17 PHMSA or other parties authorized actions based
18 on the facts established. We have certain
19 authorities that we put into regulation.

20 It's pretty generic. I mean, it's
21 well understood. Really a lot of things were
22 described up above in the paragraph up there.

1 And I think again with the vein of not designing
2 this system, we know that we have to be careful
3 on how this is set up. We know it needs to have
4 a non-punitive aspect to make it successful.

5 So I think we put these words in here
6 and then we'll go about designing it should the
7 Secretary decide to do it and we'll be fine. If
8 we're not fine, I'm sure we'll hear. We'll tweak
9 it as we go. I'm pretty good with that, how that
10 is.

11 CHAIR BURMAN: Just remember also with
12 the FAA one of the reasons they have this also is
13 what they take into the system too. And they had
14 criteria on what they would take into the system
15 so that they wouldn't take in situations where
16 they felt that people were trying to gain the
17 system, where they felt it clearly was criminal
18 activity and other things so that that word will
19 become very important and those MOUs and what
20 they work through is very important as well.

21 MEMBER PARKER: This is Randy Parker.
22 I agree. It's the devil is in the details. And

1 as a matter of fact, Recommendation No. 4 was
2 initiated by Cynthia Dominik and Dane Jaques are
3 two aviation experts. And they said, look, we
4 have a very good program at the FAA and we call
5 it incentive program which we removed yesterday
6 from our title. But that's where it came from.

7 The incentive program was all about
8 getting people to report when they wouldn't
9 normally do it. It's a little different because
10 people are certificated and they know they're
11 saving their jobs if they report quickly.
12 They're not going to have punitive action taken
13 against their certificate.

14 The other aspect of the FAA program is
15 that on their, quote, VIS, on their board, they
16 have FAA inspectors and enforcement people who
17 screen all of these filings. So you've lost your
18 anonymity when you send in a report under that
19 system. They look at them. They know who you
20 are. And if they say, hey, they're gaming the
21 system, they kick it out and initiate an
22 enforcement action.

1 So I didn't hear any ideas about
2 putting PHMSA in that role on the VIS. And I
3 think it would be a mistake. But in any event,
4 there's a big difference between how the FAA
5 systems work and how our proposed system would
6 work in that sense. So it's you almost have to
7 design it up front to be very careful about the
8 way you design it so it'll work without having
9 that monitoring and enforcement role at the VIS
10 which kind of you lose the anonymity that you're
11 trying to seek.

12 MEMBER PERRY: So Randy, I'm just a
13 little bit confused about the language and what
14 happened yesterday versus today. And I want to
15 just to reconsider what we offered. And I
16 understand the corrective action issue. But I
17 don't know how this improves.

18 I don't mean that to be negative, but
19 I don't know how to -- I thought what we had
20 yesterday was pretty good. I don't know if we're
21 confusing or making it more muddy right now. I
22 feel like I'm a bit more confused than I was

1 before. So I need help. That's all.

2 MEMBER PARKER: Sure, Dr. Perry. It
3 is a little confusing. But when we still had the
4 corrective action piece of it in there, all of
5 your language that we agreed upon yesterday would
6 fit right in there perfectly. But now that you
7 don't have the corrective action mechanism, that
8 language is not necessary. If we put it back in,
9 we would put back in the language that talks
10 about the relationship between, that corrective
11 action process and what PHMSA could do about it.

12 MEMBER PERRY: Remind me again what
13 the problem with the corrective -- and I'm sorry
14 if I'm rehashing, but --

15 MEMBER PARKER: No, that's okay.

16 MEMBER PERRY: -- I am a little lost.

17 MEMBER PARKER: No, that's okay.

18 MEMBER PERRY: Remind me what the
19 problem with the corrective action is.

20 MEMBER PARKER: There were about six
21 people yesterday who said they didn't like the
22 corrective action idea because, number one, it

1 wasn't needed. You're putting this stuff in the
2 VIS and so it was going to be anonymous anyway.
3 Why do you need that extra step? And some people
4 said it would be very confusing because there's a
5 corrective action order that PHMSA can issue.

6 It's a little different. Of course,
7 it's an enforcement tool. And there was just a
8 general disagreement I think and grumbling around
9 the table that they didn't like how that element
10 of Recommendation 4 worked. And it didn't seem
11 like it worked and it was not appropriate.

12 But if we think the corrective action
13 step where an operator documents the fact that
14 they found something, not only did the report it
15 to the VIS but they fixed it. If we want to put
16 that back in, we would put back in the language
17 that you recommended about how that shouldn't be
18 gamed. PHMSA still has the ability to enforce in
19 certain situations.

20 MEMBER PERRY: The reason I like what
21 we offered yesterday was because I feel like it
22 keeps the VIS independent in a way. I mean,

1 that's how I interpreted it and that this was
2 just to -- what I offered was to denote that this
3 is not preventing anything that PHMSA or state
4 regulatory guys would do otherwise, so --

5 MEMBER PARKER: Correct. And they're
6 two different worlds. There's the VIS world and
7 then there's the enforcement world.

8 MEMBER PERRY: And I like that. I
9 don't know if industry likes that and other
10 parties. But I think that it's nice to have it
11 set up that way to be very clear. I'm not sure
12 if that's what everybody agrees with.

13 MEMBER PARKER: Well, we might want to
14 have a vote on that, on whether or not people
15 would like to have that corrective action element
16 in the recommendation.

17 MEMBER PARKER: Does anyone have any
18 thoughts on that? Mark?

19 MEMBER HERETH: I'm struggling with
20 where we are on this very candidly. I think we
21 need to have a proposal put out on the table and
22 the rationale for it and then vote on that. I'm

1 struggling with the movement, and I don't mean
2 that to be critical of anybody. But I think John
3 helped us a few minutes ago. John Stoody helped
4 us by seeing how we can tie off to where FAA was
5 and to the extent that we can do that, I think
6 that's really important.

7 MEMBER PARKER: Mark, what do you mean
8 by tying off to the FAA?

9 MEMBER HERETH: Just in terms of the
10 language that they had used. For example, legal
11 enforcement, things like that.

12 MEMBER PARKER: Okay.

13 MEMBER HERETH: But with respect to
14 the corrective action, I was deferring to you all
15 because I wasn't here yesterday morning. And now
16 --

17 MEMBER PARKER: Oh, you missed all
18 that, yes.

19 MEMBER HERETH: -- I'm struggling with
20 why it's in and why it's out. But I don't want
21 to revisit something frankly if we've decided on
22 it. But it sounds like we're not --

1 MEMBER PARKER: We haven't --

2 MEMBER HERETH: -- decided on it.

3 MEMBER PARKER: -- decided on it, no.

4 I think it's an issue that we wanted to bring up
5 to talk about because there was -- I didn't think
6 there was a consensus yesterday on that
7 particular aspect.

8 CHAIR BURMAN: Christopher?

9 MEMBER WARNER: Chris Warner from
10 Mears. I was one of the ones that voiced some
11 concern about the corrective action and the 30
12 days. And it was mainly in reaction to what I
13 thought I was hearing from public advocates about
14 the concern that operators would use that as a,
15 quote-unquote, get out of jail free card.

16 So I'm fully supportive with going
17 back to that if we can tie it back to the
18 direction that John gave us. And if Simona is
19 fine with that addition of that language at the
20 end, I don't object to that at all. In fact, if
21 it encourages operators to create corrective
22 action plans, I think that's a positive thing in

1 the long run. So I think that's where we got a
2 little bit hung up between the two ends was why
3 was this in here.

4 CHAIR BURMAN: That makes sense. Bill
5 and then Simona. Alan, did you have any thoughts
6 on this? Okay. Bill?

7 MR. CROCHET: Bill Crochet. I want to
8 agree with what Christopher just said because
9 just reading what Dr. Perry wrote yesterday, I
10 thought that we did agree in principle on that.
11 And now I'm seeing -- I think I saw the word
12 "intentional" or words that weren't there
13 yesterday. And I don't recall that being a part
14 of the discussion yesterday.

15 MEMBER PARKER: Which words, Bill,
16 were you talking about?

17 MR. CROCHET: Can we scroll down a
18 little bit? Intentional violation of a law, I
19 don't know where we've gotten into who determines
20 whether that happens or not, whether that's a
21 regulator or a court. And then farther down, the
22 same thing. Criminal conduct is found by a court

1 --

2 MEMBER PARKER: Right.

3 MR. CROCHET: -- more often than not,
4 many years later after an event. And I don't
5 know where that helps anybody in this case here.

6 MEMBER PARKER: These are exceptions
7 that were in the FAA program that Ahuva mentioned
8 yesterday that she would be very skeptical about
9 this unless there were some protections in there
10 for intentional, willful violation of the law in
11 a civil way or regulations or criminal activity.

12 MR. CROCHET: So you're saying that
13 this is part of the FAA?

14 MEMBER PARKER: Yes, they're the five
15 deadly sins that if you do certain things, the
16 protections aren't there. If they find out
17 about, for instance, alcohol and drug use during
18 an event or if you intentionally violated a
19 regulation and then you voluntarily submitted it,
20 that doesn't count. Or if it was a criminal act
21 and you had voluntarily submitted information to
22 try to gain the protection, then that doesn't

1 count either.

2 MR. CROCHET: That makes sense.

3 MEMBER PARKER: That's what the --

4 MR. CROCHET: Yes, that makes sense.

5 MEMBER PARKER: And Ahuva mentioned
6 those as protections that she would need to be
7 comfortable with this which is why we put those
8 in.

9 MR. CROCHET: So this is in addition
10 to what we agreed to yesterday.

11 MEMBER PARKER: Right.

12 MR. CROCHET: Then I understand
13 better. That makes sense.

14 MEMBER PARKER: Right, right.

15 MR. CROCHET: Yes.

16 MEMBER HERETH: I'm going back and
17 looking at what Dr. Perry sent around lunchtime
18 yesterday, about 11:17. And my sense is that
19 because I sent this out to a number of people
20 knowing that I wasn't here and I wanted to get
21 their feedback including a certain Pipeline
22 Safety Trust representative on the West Coast.

1 And I got no pushback from any of those people.
2 So I'm wondering if we could revisit this and
3 understand what reservations there are.

4 MEMBER PARKER: Right.

5 MEMBER HERETH: Because my sense was
6 -- including C.J. and others was that there was
7 there was consensus around this. So help me
8 understand why it is that we don't have consensus
9 around that.

10 MEMBER PARKER: Well, that language
11 that you're talking about is not part of this
12 recommendation.

13 MEMBER HERETH: I'm sorry. I thought
14 this was part of what we were talking about.

15 MEMBER PARKER: It was more in the
16 body of the report that Dr. Perry was addressing.
17 So certain concepts.

18 MEMBER PERRY: No, I sent out to --
19 because you were involved in the conversation and
20 you and Dan, I think maybe it was, not to
21 everyone in the group. And they had been vetted
22 through other folks, so yes.

1 MEMBER PARKER: We're happy with that
2 language, yes.

3 MEMBER PERRY: Yes, so it's different
4 than the trust language. It's the --

5 MEMBER PARKER: Right.

6 MEMBER PERRY: -- this is the language
7 about trying to make sure that it --

8 MEMBER HERETH: See, I went to this
9 because it has the correction action language in
10 it. So now I'm really confused.

11 MEMBER PERRY: So it clarifies. This
12 is the clarifying language that was offered for
13 Recommendation 4, R-4.

14 MEMBER PARKER: Okay. Yes, the
15 clarifying language for R-4, yes, we read that
16 and accepted it as that was fine. I don't have
17 the red line. That's the problem. I had
18 problems with making the red line work, so --

19 MEMBER HERETH: What is the ask at
20 this point of the committee? If we have an ask
21 of the committee, then I think we can respond.
22 That's where I'm struggling, and I don't mean to

1 be --

2 MEMBER PARKER: I think the only ask
3 of the committee is do we want to retain the
4 corrective action process whereby an operator who
5 submits information to the VIS and at the same
6 time finds that they need to take some corrective
7 action for some reason, that that corrective
8 action document will prevent PHMSA from coming
9 back even if it finds a violation later and
10 finding them or taking adverse action on the
11 basis of the material that's in the corrective
12 action report.

13 In other words, it's sort of like an
14 insurance policy for the operator who finds --
15 for instance, if they find that they've violated
16 their own procedures in the way that they've done
17 something. They discover that and they say,
18 we've got to fix this right away. They write the
19 document and they implement the plan.

20 Six weeks later, PHMSA is doing an
21 integrated inspection and they say, hey, you
22 weren't following your own procedures so we're

1 going to send you a warning letter or we're going
2 to fine you or we're going to take some other
3 action. They can show that document and say,
4 well, we submitted this to the VIS and we
5 immediately wrote and initiated a corrective
6 action plan. Therefore, they get special
7 protection for taking those steps. And that's
8 what --

9 MEMBER HERETH: And what would the FAA
10 do?

11 MEMBER PARKER: The FAA has the same
12 set up. You file it and you have to submit a
13 corrective action plan. And if they find out
14 about it later and you have your corrective
15 action plan and you carry through on what you've
16 decided to do, you're good. But they can still
17 comment on that. They can still say, we think
18 you need to revise your corrective action plan,
19 which in this case would also be available.

20 MEMBER HERETH: And so what I'd ask is
21 why wouldn't we adopt that same approach?

22 MEMBER PARKER: I'm all for it. I

1 would like to adopt it. But we had a lot of
2 pushback yesterday when you weren't here. So it
3 sounded like it was dead on arrival kind of. But
4 I'm willing to revive it.

5 CHAIR BURMAN: So just to focus a
6 little bit more now. I think that that sort of
7 explains it and maybe we had to hear it a little
8 bit again because I think now it explains why
9 when a regulator would find out about when
10 something went into the VIS and when they would
11 say, okay, we're good, and not now taking this,
12 right?

13 And so it's a matter of then they
14 worked through what the parameters are for not
15 grabbing it, right, because there's established
16 protocol that they've worked out with the
17 executive board, right? And so the corrective
18 action, what that may look like, they've worked
19 through what goes into it.

20 So those five criteria that wouldn't,
21 you'd get the criminal activity, the intentional
22 misconduct, those types of things, alcoholism

1 wouldn't go into it, and then a corrective action
2 program. But even on a corrective action
3 program, a regulator may be able to look at it in
4 certain parameters and say, we need some
5 refinement. So there is a give and take that may
6 be able to happen from an aggregate perspective
7 and then looking at it.

8 MEMBER PARKER: Correct.

9 CHAIR BURMAN: So that gives some of
10 -- so it's not a get out of jail card free. But
11 yet it also is where we want it to be successful.
12 We want it to not be punitive. And also we need
13 it to make sense.

14 MEMBER PARKER: Correct.

15 CHAIR BURMAN: So following that
16 model, it can be workable.

17 MEMBER PARKER: Right. And based on
18 the discussion today, I would move that we put
19 the corrective action language back in there. I
20 think everyone is comfortable with it now. And I
21 think with the language that we worked out with
22 Dr. Perry provides the clarification I think the

1 pipeline safety advocate groups would like with
2 respect to it's not a get out of jail free card.

3 CHAIR BURMAN: Right. I think Robert
4 and then Max.

5 MEMBER BUCHANAN: Yes, Bob Buchanan.
6 Aren't we talking about things that should be
7 reportable anyway? Like, if it's something
8 serious enough that they're going to find or
9 they're going to make a serious corrective
10 action, shouldn't they be reporting it to PHMSA
11 anyway outside of VIS? That's what their mandate
12 is. They're supposed to do that. VIS is
13 supposed to be anonymous. They shouldn't be
14 using that to get out of a problem. If they're
15 going to get fined for something, they probably
16 should've been reporting it anyway. That's
17 separate from VIS, no?

18 CHAIR BURMAN: Right, right.

19 MEMBER MAYBERRY: Well, it may not be
20 a reportable issue. It may be a missed reading
21 they found as an implicated issue or missed
22 assessment or a missed call.

1 MEMBER BUCHANAN: But it's serious
2 enough to get them fined?

3 MEMBER MAYBERRY: It could. It could.
4 I mean, if they didn't follow procedures or --
5 yes.

6 CHAIR BURMAN: Max.

7 MR. KIEBA: Yes, I was one of the ones
8 that voiced some concern. I mean, granted, I'm
9 not a committee member. But one, I shared our
10 concerns from legal. So if that's addressed. I
11 don't know if Ahuva has had a chance to look at
12 it. And the whole notion of the corrective
13 action, I think part of my struggle was no one
14 assesses the adequacy of the correction action
15 order until it gets to the actual inspector.

16 So that was my concern of someone
17 could just throw in a corrective action order and
18 the way it was written just means, okay, we're
19 done. But I think we still need our inspector to
20 be able to look at that because there could be
21 corrective action orders that are completely
22 weak. But the way it was written is like, sorry,

1 I put it in so you can't touch me.

2 I like what you just said about the
3 give and take. I think we still need that
4 flexibility for the inspector to say, okay, what
5 is your corrective action order? Is it adequate?
6 I agree. Just about all inspectors most do
7 certainly consider all that. But there's still a
8 level of, well, you go there but not quite good
9 enough. So that was my concern, I think,
10 yesterday.

11 MEMBER PARKER: Well, I think that if
12 PHMSA has the opportunity to look at those
13 corrective action plans that are laid out in
14 connection with something that's been submitted,
15 they can recommend changes. As long as it's not
16 punitive in the sense that they come in and say,
17 you wrote a really bad corrective action plan --

18 MR. KIEBA: Well, where would you --

19 MEMBER PARKER: -- and so we're going
20 to fine you.

21 MR. KIEBA: -- see that happening,
22 though?

1 MEMBER PARKER: Pardon?

2 MR. KIEBA: Where would you see that
3 happening, though? Because I don't think the VIS
4 could do that, right? When it's submitted to the
5 VIS, I don't think PHMSA could --

6 MEMBER PARKER: No.

7 MR. KIEBA: -- see if this is good
8 because --

9 MEMBER PARKER: No.

10 MR. KIEBA: -- that's almost
11 overstepping what states would do too. We can't
12 guarantee that a state might see it differently.

13 MEMBER PARKER: Correct.

14 MR. KIEBA: And that's the problem I
15 have is just because you put in a corrective
16 action, no one has evaluated if it's adequate.
17 That adequacy doesn't happen until the scenario
18 where an inspector might find it independently.
19 Okay, let me see what you submitted. Well, I
20 might have some struggles here.

21 MEMBER PARKER: Right.

22 DR. MURRAY: But I think that might be

1 spilling over into a whole other aspect of VIS
2 and getting beyond the initial lessons learned.
3 And one of the things I think I heard John Stoody
4 talk about was FAA's model does not allow for
5 repeat offenses. So the validity of the
6 corrective action program that an operator may
7 implement might not allow for the same sort of an
8 issue to come up again and get that same level of
9 -- it would require more scrutiny getting into
10 the VIS, so --

11 MR. KIEBA: Right. And that wasn't
12 mentioned at all yesterday in the language.

13 DR. MURRAY: Right. So maybe that's
14 something to consider. It sounds like from what
15 we heard in the conversation to go back and maybe
16 revisit the language around the correction action
17 program. Also, Dr. Perry's language suggestions
18 in addition to visiting -- reviewing some of the
19 additional language that FAA uses around repeat
20 offenders and some of those other components
21 might strengthen this section a bit more.

22 MEMBER PARKER: Right. I think the

1 board, as Alan mentioned, they're going to have
2 to work through a lot of these thorny issues.
3 But if we can lay down some general principles
4 like that in the correction action program, I
5 think that it would at least -- there would be
6 some intent of congress there about how it should
7 work. And the board is going to have to work out
8 the details.

9 The FAA had 25 years to work out the
10 details, and they did it all through policy, not
11 even regulations. And the reason it worked
12 according to Cynthia was they just refrained.
13 Even when they wanted to take enforcement action,
14 they refrained.

15 If it was something that was
16 voluntarily submitted, they said, we ought to
17 nail these people. But no, we're not going to do
18 it because we want people to trust that if you do
19 this voluntarily, we're not going to take
20 punitive action. So that's an interesting
21 construct between the regulator and the regulated
22 companies.

1 CHAIR BURMAN: So I think we may made
2 significant progress here. I just want to take a
3 pulse on folks on this, in particular Dr. Perry.
4 Are you comfortable? Folks on the phone, in the
5 audience? Okay.

6 MEMBER PARKER: Dan will abstain
7 because he's not here.

8 CHAIR BURMAN: I'm sorry. I didn't
9 hear. On the phone?

10 MEMBER PARKER: On the phone?

11 CHAIR BURMAN: Okay. Alan?

12 MEMBER MAYBERRY: I'm good.

13 CHAIR BURMAN: Kevin?

14 MEMBER PARKER: Hey, Joe. Wait a
15 second. They're going to turn it up so we can
16 hear you. Okay?

17 MR. SUBSITS: As a regulator, when we
18 see violations, generally we'll send a letter
19 around. We'll ask for a corrective action letter
20 on the issue. The issue will either be something
21 that they fixed immediately or something that's
22 going to be pretty involved and may take quite a

1 bit of time.

2 So we're asking for a corrective
3 action essentially anyways. The reality is a lot
4 of plans that we get from operators a lot of
5 times fall short of what our expectations are. A
6 lot of times there are different interpretations
7 between the regulators and the operator in terms
8 of what constitutes compliance.

9 So you have that dialogue. You have
10 that debate. I think my recommendation on
11 corrective actions plan is if the operator comes
12 across something that a regulator never detected
13 and was part of the VIS that they would have that
14 dialogue with the regulator to review the
15 corrective action plan to determine whether to
16 come to an agreement in terms of whether that
17 correction action plan was adequate.

18 And I think I don't know many
19 regulators out there that are into got you. I
20 think my experience that most of them, they
21 welcome the self-reporting of violations to state
22 regulators. Of course, state regulators are all

1 different. And there's a lot of variety in terms
2 of how they handle situations.

3 But from what I've seen, most of them
4 -- and I don't know of any that don't embrace the
5 concept of self-reporting, working with the
6 operators to self-report. So I guess I'm
7 supportive of Randy's language that he has in the
8 corrective action. My recommendation is to work
9 with the regulator if you do develop a corrective
10 action plan.

11 And I think at least in our situation,
12 I believe most situations they're more than
13 willing to work with you because to go through
14 the enforcement process takes a lot more work
15 than coming up with a corrective action plan when
16 the operators plan to comply in good faith. I
17 mean, it doesn't make sense to go through all
18 that when there's easier paths to get to where
19 you need to be.

20 MEMBER PARKER: That's very helpful,
21 Joe. Are you suggesting that maybe the
22 correction action plan be submitted to PHMSA at

1 the time it's written for dialogue?

2 MR. SUBSITS: The operators -- I think
3 what's important is for operators to have really
4 a good relationship with their -- open
5 relationship with their regulators. And if there
6 is some issue that the operator finds that's
7 going to take some time to comply with, there
8 should be some documentation on hand by the
9 operator where they already have some corrective
10 action plan developed. And doing that with the
11 regulator I think is in the operator's interest
12 so that there's a common understanding in terms
13 of what direction the operator needs to go and to
14 ultimately attain compliance.

15 MEMBER PARKER: That's very helpful.
16 Thank you.

17 CHAIR BURMAN: And just keep in mind
18 the de-identifying of information. Okay. So I
19 think we're good now on this recommendation and I
20 think we have two more left on your section. Is
21 that correct?

22 MEMBER PARKER: Mm-hmm.

1 CHAIR BURMAN: I just want to do just
2 a time check for folks. We do have two left. I
3 do think they're pretty quick. And then we only
4 have a little bit left in terms of wrapping up,
5 the punch list as well as the public comment we
6 received and then the time line for the report as
7 well as taking in public comments. And then any
8 other next steps or other things we may have
9 forgotten.

10 So I would like to work through lunch
11 so that we can leave earlier if that works for
12 folks. I'm making sure we don't need to take a
13 break at this point. Is that good? Is everyone
14 all right with that? Okay.

15 Well, before we move on, I do want to
16 say one thing that I'm thinking of that I did
17 write down just a couple of things. And I don't
18 know if it is anywhere in the report. But to the
19 extent that the VIS board, when it takes and goes
20 to the accountability of the information.

21 At some point when we are looking at
22 lessons learned and what we're gathering from it,

1 it would be helpful that there is somewhere in
2 the report that there is a recognition that they
3 would be issuing some type of, if appropriate,
4 recommendations or ability to say, hey, we found
5 this information and federal and state
6 regulators, we want to give you this information
7 and sharing it with you pursuant to what we found
8 in the aggregate that is informative to the
9 development of general regulations or standards
10 for pipeline safety.

11 It's not looking to chill things but
12 in fact it goes to the very heart of this thing
13 that we discovered. This opportunity is
14 something that is now a good thing, whether it's
15 a best practice to do, whatever it might be so
16 that it showcases that information in a helpful
17 way.

18 And I don't mean for it to be seen as
19 now put this in regulation. That's not what I'm
20 intending. I'm looking for it to be value added
21 to, hey, this is what we got out of this. We
22 were able to make these changes, whether it's

1 best practices or whether it's now codified in
2 some way. And I don't know how to do that with
3 my regulator to have, I think, regulations. So I
4 don't mean for it to sound that way. That's why
5 I'm fleshing this out.

6 But I would like to somehow have
7 captured the ability for the executive board to
8 be able to allow that information to be captured
9 and not for preserving that regulatory authority
10 in the aggregate. So you're using that combined
11 information to set collective industry practices
12 or standards because that's the value of the VIS
13 working group information. Does that make sense?

14 MEMBER PARKER: That makes a lot of
15 sense. I think that will be one of the most
16 beneficial parts of the VIS is disseminating
17 interesting findings, helpful findings, workable
18 solutions and workarounds to the public at large.
19 But specifically the state regulators and others
20 who don't have this kind of a tool to work with.

21 CHAIR BURMAN: The sensitivity I have
22 is that since I'd be working with PHMSA and we

1 both sit in the regulatory role, someone else
2 reading it could see it as what we do best which
3 is looking like we're overregulating. So when we
4 do that in consultation with, I will need folks
5 to look at it and does this make sense, that
6 we're not looking to standardize this in a
7 regulatory environment.

8 We're looking to make it -- show the
9 value of the executive board has identified this
10 and now adding value to it. So that's why I'm
11 just throwing it out there so when you look at
12 that, that you don't see it as, well, where did
13 this come from?

14 MEMBER PARKER: Right. That's a good
15 distinction between being prescriptive and then
16 being helpful.

17 CHAIR BURMAN: Right, right. And it's
18 the charge of the executive board. But it
19 preserves that authority. So they give it to us.
20 Or to the industry, right? They're giving
21 information.

22 MEMBER PARKER: And the stakeholders

1 on the executive board will help shape those
2 ideas and policies. And that will be good.

3 CHAIR BURMAN: Leif?

4 MEMBER JENSEN: I do appreciate your
5 comments and respect the fact that you think
6 regulatory and codify. There's another
7 opportunity that we may be able to incorporate
8 some of these best practices or systemic findings
9 and the corrective actions associated with those
10 systemic findings into recommended practices --

11 CHAIR BURMAN: Right.

12 MEMBER JENSEN: -- or other standards.

13 CHAIR BURMAN: Right.

14 MEMBER JENSEN: And not necessarily
15 have to go down the regulatory path.

16 CHAIR BURMAN: Exactly, exactly. And
17 what I want to be able to do is to say -- because
18 we've been focused on not using the information.
19 So it made me realize last night that while we're
20 prohibiting the use, we don't want to prohibit
21 the benefit of that information. So that's what
22 I really wanted to make sure that we capture

1 that, so --

2 MEMBER PARKER: Good point, Leif.

3 That's a pretty good point.

4 CHAIR BURMAN: Okay.

5 MEMBER PARKER: Okay. Let's look at
6 Recommendation 5. This just prohibits the use of
7 VIS information in litigation. And I don't think
8 we made any changes in this one except that last
9 phrase which says that this prohibition doesn't
10 limit discovery or admissibility in any
11 regulatory, civil, or criminal proceedings even
12 if the same information was submitted to the VIS.

13 Recommendation No. 6 is about funding.
14 And we tried to put in the correct verbiage here
15 that would be complementary with G-3. It
16 basically says PHMSA should provide initial seed
17 and sustaining funding. The Secretary in
18 consultation with the executive board should
19 explore sustainable funding sources including
20 public-private partnerships. I want to make sure
21 I got that right. Christie, I think I did. And
22 then G-3 talks more about the board's obligation

1 to consult.

2 CHAIR BURMAN: Dr. Perry, this was one
3 that you had been particularly good at
4 highlighting for us. So making sure that we
5 captured that. Anyone on the phone have any
6 comment or in the audience?

7 Alan, I don't think you were here when
8 we talked about this. And this is really side
9 issue. But I do raise it that NAPSRS does have an
10 issue in terms of they get a grant from PHMSA and
11 then they pay their bills from that but that it
12 is a challenge for them as a small operation to
13 the extent that we look in some ways a low
14 hanging fruit in addressing it so that maybe
15 PHMSA can take care of paying some of that
16 directly in some fashion.

17 The VIS executive board may have a
18 similar situation too. So I just throw it out
19 there because I do believe it is a challenge for
20 the NAPSRS folks. And maybe there's some way of
21 addressing that administrative nightmare for
22 them, so --

1 MEMBER MAYBERRY: -- as part of your
2 participation with that?

3 CHAIR BURMAN: No, totally aside.

4 MEMBER MAYBERRY: It's totally --

5 CHAIR BURMAN: I just have to --

6 MEMBER MAYBERRY: Okay.

7 CHAIR BURMAN: -- anytime I have that
8 opportunity, Kevin asked me to raise that. Like
9 I said, it's a shameless plug. So Kevin, did I
10 get it right? Is he here?

11 MEMBER MAYBERRY: It's on the record.

12 CHAIR BURMAN: But the executive board
13 would have similar issue because it would be
14 initially a small operation. And so if there's a
15 problem, it causes an issue. So to the extent
16 that while you get the grant, you also have to
17 have the administrative, all those processes. So
18 I raise it. And I'm just checking. Dr. Perry,
19 you're okay with this language? All right. So I
20 think we're good with all of this.

21 MEMBER PARKER: Madam Chair, I move
22 that we approve R-1, 2, 3, 4, 5, and 6 subject to

1 recirculating R-4 for consideration by everyone's
2 input on the final language that incorporates the
3 corrective action plans and the other discussions
4 about language that we had today.

5 CHAIR BURMAN: Okay. So one of the
6 things is this is our last meeting. So one of
7 the things that we need to do is we need to vote
8 on all of them, the changes that we had globally
9 and give some ability for flexibility for me as
10 the chair working with PHMSA in consultation with
11 the subcommittee chairs as appropriate.

12 And I say in consultation with as
13 appropriate to finalize the report in the spirit
14 of reaching, keeping in mind the discussions
15 we've had and all of the thoughts and concerns
16 folks had and to try to finalize it with the goal
17 of the spirit of consensus and not doing anything
18 that would go against that and how we've done
19 that.

20 And to the extent that would be done
21 as best I could so that on our R-4, it would be
22 in consultation with those folks who I know are

1 going to be most concerned with it and use a wide
2 cross section so that we come to that
3 collaborative closure on that issue.

4 So I think that's the best way to do
5 it so that we could finalize the report with that
6 and still maintain the need to no longer have a
7 meeting but also be able to finalize the report
8 in a timely fashion. Does that make sense?

9 MEMBER PARKER: That makes sense.

10 Madam Chair --

11 CHAIR BURMAN: So would your motion be
12 broader?

13 MEMBER PARKER: -- I would make a
14 motion that we approve R-1 through R-6 as we
15 discussed today subject to those revisions that
16 we will make. And the second part of my motion
17 would be -- well, I'd like to have a vote on that
18 first and then I have another motion.

19 CHAIR BURMAN: Okay, great. Any
20 discussion? All those in favor, please say aye.

21 (Chorus of ayes.)

22 CHAIR BURMAN: Any opposed? Any

1 abstentions? Hearing none, the motion passes
2 unanimously.

3 MEMBER PARKER: Thank you, Madam
4 Chair. My second motion is that we vote to adopt
5 the process that you have described for holding
6 the pen on behalf of the committee and taking
7 upon yourself the obligation to reach a consensus
8 on some of these issues that are still swirling
9 around a little bit and to make sure that our
10 report moves forward in a very efficient manner
11 and reflects the thoughts and votes of all the
12 committee members. So I would move that we, as a
13 committee, approve that process.

14 CHAIR BURMAN: Discussion? Leif?

15 MEMBER JENSEN: Leif Jensen, Sunoco
16 Pipeline. I know you explained the process
17 eloquently, Madam Chair. But I'm curious to know
18 what best mechanism for the tech writers or the
19 VIS to submit, for lack of any other terms, a red
20 line document or comments to the document beyond
21 those in the recommendations.

22 CHAIR BURMAN: Right. So why don't we

1 put up the time line now.

2 DR. MURRAY: So Leif, to answer your
3 question and I think this will tie in well with
4 the discussion. The intent is to leave today --
5 actually let me go to the next one. This might
6 show it better.

7 So where we are is in that first box
8 on the left where we need to go back and take all
9 the parts that have been talked about. And there
10 may be a little bit of homework for the committee
11 to tweak the language in certain sections. So we
12 will work to provide that and update the
13 recommendation report based on the committee
14 input we've received.

15 And then the third box where we talk
16 about sending the report back to the committee
17 around the beginning of January, we'd like to do
18 that. Give the committee several weeks, two
19 weeks, I believe, to review and provide any final
20 comments through the subcommittee chair. And
21 I'll talk about that more in a second.

22 But at the same time, we will provide

1 the draft report to the committee. We'd also
2 place the report on the docket for public comment
3 and give two weeks for both reviews to take place
4 simultaneously. And then we'd like to receive
5 all the final comments back by the 22nd of
6 January as noted here.

7 And if it's the committee's desire,
8 the chair will work to clean up the report in
9 consultation with the subcommittee chairs as
10 discussed and PHMSA staff. And then the final
11 cleaned up report will be approved by the chair,
12 and she will attach her transmittal letter to
13 PHMSA for submission to the Secretary.

14 If you go -- actually, I can do it.
15 So I'm going to go back a slide to your specific
16 question, Leif. This gives a little bit more
17 detail. So around January 8th, we'll send back
18 out the updated report with some of the language
19 changes and recommendation clean-up work as a
20 result of the last two days.

21 And then those from the public, we'll
22 place it on the docket and they can reference the

1 docket number listed here to review and provide
2 public comment. And we're asking that the parent
3 committee members, when you get the report on
4 January 8th that you work through your subsequent
5 committee chairs and ADFOs to provide your
6 comments back. It will be very difficult to
7 consolidate comments from 25 committee members.
8 Easier to funnel those through the subcommittee
9 chairs and maybe get 6 to 7 revisions back versus
10 25.

11 Once the subcommittee chairs have that
12 consolidated by January 22nd, we're asking for
13 them to submit it to the email listed here.
14 That's very important to make sure the
15 individuals who have access to that inbox can
16 actually receive the revisions.

17 Also, it is very, very, very critical
18 to use track changes. So once we provide the
19 next version of the document, it would be very
20 difficult at this stage to understand and
21 decipher changes without using the Microsoft Word
22 track change feature. And if you have a comment,

1 using the comment feature in Microsoft Word as
2 well as we receive those back from subcommittee
3 chairs.

4 And once we have those in January,
5 you'll email them back to that inbox. And then
6 the public will provide their comments directly
7 to the docket. The report will be cleaned up
8 around the late January time frame and provided
9 to PHMSA to route for Secretary review and
10 acceptance.

11 I'm going to go back to this chart
12 here. If you'll notice in that red box at the
13 very left bottom, you'll notice that the
14 recommendation report itself will also have as is
15 routed to the Secretary. The letter from the
16 chair will accompany it. The PHMSA informational
17 memo will accompany it. And PHMSA will just
18 provide a memo with any clarifications that we
19 may deem as necessarily, et cetera, that will
20 accompany the package, and so will the public
21 comments.

22 PHMSA is not planning to provide a

1 summary of the comments. We are only planning to
2 attach the public's comments to the report along
3 with the other attachments. So that's the
4 general process. Leif, I'm hoping that answered
5 your question.

6 MEMBER JENSEN: It does in part. Part
7 of my question was not necessarily only the
8 recommendations. In many respects, some of the
9 content from the subcommittees was extracted and
10 input into the background information and the
11 scope and introduction. So if we want to red
12 line those documents, we don't have a
13 subcommittee chair in which to submit those. So
14 to whom should we submit?

15 DR. MURRAY: Who doesn't have a
16 subcommittee chair?

17 MEMBER JENSEN: If any of the content
18 was extracted out of a subcommittee's
19 recommendations and put into the introduction,
20 the scope, or the background and information
21 aspect of the report, those aren't necessarily
22 recommendations. They're now background

1 information or scope. So if we take issue with
2 respect to any of the verbiage or language or
3 whatever and we want to make a comment, to whom
4 should we submit those?

5 DR. MURRAY: You would submit those to
6 the subsequent subcommittee chair by using the
7 comment feature and specifying what you take
8 issue with and where it either was removed from
9 or where it should reside. I don't know if that
10 --

11 MEMBER JENSEN: Okay.

12 DR. MURRAY: Because the intent is to
13 have a comprehensive, whether it's the
14 recommendations themselves, the front matter, the
15 back matter of the report comprehensively working
16 through the subcommittee chair to provide those.

17 CHAIR BURMAN: I would also recommend
18 that you cc me as well as my secretary on all of
19 those because I'm going to be looking at all of
20 them.

21 DR. MURRAY: And what we'll do is
22 we'll send out an instruction. Just one second.

1 What we'll do is we'll send out an instruction
2 after this meeting with all the email addresses
3 to send those to.

4 MS. KELLY: I'm not clear, Leif. Were
5 you referring to making comments to the draft
6 that's already been sent out, or are you talking
7 about the future draft?

8 MEMBER JENSEN: No, we will not make
9 any -- my perspective is we shouldn't make
10 anymore drafts to the current revision that's
11 been made public to the group. We will wait
12 until we get the next version.

13 DR. MURRAY: Correct. The only thing
14 that I would offer is there have been a number of
15 language changes that were reviewed. Substantive
16 content changes that have bene reviewed and
17 agreed upon over the last two days. So if you
18 have language like I know RFL has a bit of
19 tweaking to do. And several of the
20 recommendations that were voted on were voted on
21 yesterday with edits. So if it was approved with
22 edits, we'll need those so that we can make sure

1 those will be incorporated into the version that
2 will come out in early January.

3 MEMBER HERETH: So if there are
4 comments that subcommittees have on the body of
5 the report, you are not accepting those in the
6 short term?

7 DR. MURRAY: Are they comments we've
8 talked about or are you saying you want to make
9 another review? It's really up to the committee.
10 If you want to make comments on the entire body
11 of the document including the recommendations.
12 So I'm assuming the recommendations that were
13 approved with edits will have language that will
14 be tweaked based on the committee's desire.

15 And then in addition to that, it
16 sounds like the rest of the report you may have
17 some additional edits. We can give a time frame
18 to accept those before we send out the next
19 version if that would be helpful.

20 MEMBER HERETH: Yes, I think -- I'm
21 looking around the room as I say this and I think
22 there's a sense among a good number of us that

1 there was an extraction of some material that
2 ended up in places that we don't fully understand
3 and appreciate and are going to suggest it move
4 either back or to a different place.

5 CHAIR BURMAN: I wonder if we can
6 share with the group the working document that
7 has the edits that are out there that says, needs
8 to move, keep in mind, so that people can see
9 that.

10 MEMBER HERETH: Yes, I think that
11 would be helpful. I just --

12 CHAIR BURMAN: If it's doable.

13 MEMBER HERETH: I just think that
14 there were things that we talked about, for
15 example, on the call last Friday, I think
16 Thursday or Friday, about the ordering of stuff.
17 And I don't want to belabor the meeting today
18 because I know people are trying to get out of
19 here. But I think some of us struggle with the
20 ordering of some of the material and then how
21 some of it got extracted and moved. And I don't
22 know if others want to weigh in, but --

1 CHAIR BURMAN: Michael?

2 MEMBER BELLAMY: Yes, I mean, there
3 has been some additional work going on over and
4 above the recommendations. I don't know if
5 everybody has done it. But I mean, there's a lot
6 of other thoughts and comments which have not
7 been discussed in the last two days.

8 DR. MURRAY: So the opportunity -- so
9 there were some items provided on the punch list.
10 There were items provided in our discussions
11 yesterday around the introduction, executive
12 summary, the conclusion. Those I provided last
13 night. I tried to summate those discussions.

14 So if there are some additional
15 changes, inclusions, things were extracted that
16 need to be put back in, why not -- can we agree
17 on a time to have those back, still funnel
18 through the subcommittee chair just so that we
19 don't get 25 versions that we'll have to
20 reconcile and they might conflict with each
21 other. So if we could have maybe between now and
22 next week is the holiday -- let me look at a

1 calendar.

2 MEMBER HERETH: And while you're
3 looking at the calendar, can I just offer that
4 maybe we'll try to get the group that wants to do
5 that and just do one version so you're not --

6 DR. MURRAY: I think that would be
7 great. And if --

8 MEMBER HERETH: Is that fair?

9 CHAIR BURMAN: And we can have a
10 planning call. The reason that we're not also
11 then having just a regular call or a regular
12 meeting is because then we have to put it in the
13 state register. And then we're looking at March
14 or April. So that's why we had the global vote.

15 We still do -- just to be on the safe
16 side, we do need to have a global vote on all the
17 other items other than Randy's that we talked
18 about for accepting the changes or discussions
19 that we had today because I don't think we
20 technically voted on that. So if someone could
21 make that vote as well. Oh, yes, you're right.
22 Sorry. Yes, thank you. Yes, we just need to --

1 yes, I got lost. Yes, and so now are we done
2 with discussion? We don't usually have
3 discussion. I got thrown.

4 (Laughter.)

5 CHAIR BURMAN: Randy, do you want to
6 repeat the motion?

7 MEMBER PARKER: Yes, the motion was to
8 ask the chair to take the pen and implement our
9 instructions and our various language changes so
10 that it's an efficient process and that she will
11 receive input from anyone on the committee and
12 from the committee chairs and try to complete the
13 report in a way that's very professional and
14 covers all the bases and everyone is comfortable
15 with the final product. So we'd like to dedicate
16 that -- or delegate that important role to the
17 chair if she's willing to accept it.

18 MEMBER JONES: And Leif, your
19 discussion points were what exactly?

20 MEMBER JENSEN: My discussion and
21 request for the discussion was, how do we get
22 feedback with respect to the body of the report

1 beyond the recommendations? Because all our
2 conversations over the last day and a half has
3 been solely on the recommendations. And much of
4 the content was extracted out of those and put
5 into the body.

6 MEMBER JONES: And what was your
7 response? What's the response to that?

8 DR. MURRAY: I thought Mark brought up
9 a good point to allow time for a small group of
10 individuals to get together and to provide
11 substantive feedback on the body of the report
12 and provide that by a certain time period which
13 would be followed by a planning meeting. Is that
14 what I understood? Yes, that would be the
15 planning behind his motion.

16 MEMBER JONES: Amend your motion to
17 include what you just said as well, right? Is
18 that what we're doing? Because I'm kind of lost
19 at what we're really doing now. Because the
20 motion is to let you go forth and write the
21 report, finish up, add in all the stuff and
22 finish it.

1 MEMBER PARKER: Correct.

2 MEMBER JONES: And now you're asking
3 how do we get input into her process of writing
4 it.

5 MEMBER PARKER: Correct.

6 CHAIR BURMAN: Why don't I make the
7 motion. Why don't we withdraw the motion.

8 MEMBER JONES: Okay, yes.

9 MEMBER PARKER: Okay. I'll withdraw
10 the motion.

11 MEMBER JONES: All right, good.

12 CHAIR BURMAN: I'd like to make a
13 motion to you to give me authority with PHMSA in
14 consultation with subcommittee chairs and other
15 members as necessary to establish a framework
16 that will allow input from the committee members
17 to substantively work within the time line
18 established to complete the final report to
19 submit to the Secretary that incorporates the VIS
20 working group's discussions and substantive input
21 in a way that continues the spirit of consensus
22 and fulfills the congressional mandate. And we

1 do so with the, as appropriate, necessary
2 planning meetings and discussions via email and
3 calls if necessary, facilitated by PHMSA with the
4 appropriate legal and ethical guidance.

5 MEMBER PARKER: I'll second the
6 motion.

7 CHAIR BURMAN: Without voting and
8 deliberation.

9 MEMBER PARKER: I'll second the
10 motion.

11 MEMBER JONES: All right. Now
12 discussion.

13 CHAIR BURMAN: Discussion.

14 MEMBER JONES: Move this all forward
15 without us necessarily meeting, but you'll get
16 our input. That's what we're talking about?

17 CHAIR BURMAN: Right. And to the
18 extent -- this discussion, to the extent that we
19 need meetings and that facilitate that with the
20 appropriate legal and ethical guidance with no
21 voting and substantive deliberation because
22 that's the appropriate legal --

1 MEMBER JONES: Okay. I'm fine.

2 CHAIR BURMAN: -- requirement.

3 MEMBER JONES: I just wanted to be
4 clear.

5 CHAIR BURMAN: Okay. Any further
6 discussion? Dan?

7 MEMBER COTE: Just a logistical
8 question on how we actually carry that out. A
9 logistical question is recognizing that there
10 have been a lot of moving parts over the last day
11 and a half. And so I assume the precursor to
12 that will be we will all receive the most current
13 version of the report within the next few days
14 that we can begin to formulate our substantive
15 responses on. Is that fair?

16 CHAIR BURMAN: Yes, and for clarity,
17 that you gave me the authority to help facilitate
18 the appropriate process with PHMSA to do that so
19 that we can meet that time line. But did I hear
20 a second? I don't know. Okay.

21 MEMBER PARKER: I seconded.

22 CHAIR BURMAN: Thank you, guys. Any

1 clarification? We're still in discussion mode.

2 DR. MURRAY: And just to remind all
3 the subcommittees, your recommendations that have
4 been changed, we have tried to capture them. But
5 I know there was some written language taken
6 place during this meeting. Please provide me and
7 Diane the most current version of what was agreed
8 upon and approved that you may have so that we
9 can reconcile it with the notes we have taken
10 that might have included edits based on what was
11 discussed today.

12 That will help us to facilitate
13 cleaning the report up based on the things that
14 we have heard over the last two days. And we can
15 provide you with a better draft to provide your
16 substantive body document comments to. And we
17 will give time to make those changes to make sure
18 whatever was extracted is put back in, cleaned
19 up. If there are things that need to be moved
20 around, have that happen before the next solid
21 version is released for committee's input.

22 So there will be at least two

1 opportunities to get committee input into the
2 document. This first one will be to make sure
3 what we've discussed is acknowledged and
4 recognized and the draft and then we'll try to
5 get that sent back out so that you can look at
6 the body a little bit more and feel good about
7 the full document before we clean it up more and
8 come back to you again. I hope that's clearer
9 than it was before. Okay.

10 CHAIR BURMAN: Now once we vote, then
11 we'll talk about something else. But are we done
12 with discussion or do we still need to -- okay,
13 anyone on the phone? In the audience? Okay.
14 Hearing none, all those in favor, please say aye.

15 (Chorus of ayes.)

16 CHAIR BURMAN: Any opposed? Abstain?
17 Okay. The motion passes unanimously, though I
18 almost wanted to vote no, but --

19 (Laughter.)

20 CHAIR BURMAN: I do just want to make
21 a comment. One of the things for me also was the
22 need to make sure that we were focused on input

1 for those who were not on the committee. And so
2 it was very important for me to always open it up
3 to the audience and to really enable a robust
4 discussion because I think that then helps that
5 way. And so one of the audience members in the
6 very beginning asked us about the opportunity to
7 comment.

8 And so even knowing that we had a
9 short time line, this building this in, knowing
10 that we had to have this last final meeting in
11 December, we also focused on this extra sort of
12 layer of the January 8th. It happens be Elvis'
13 birthday if anybody cares. And also happens to
14 fall on the GPAC meetings so that the draft
15 report gets -- right, the draft report gets
16 issued at that time and then open for comment so
17 that we then get feedback.

18 While we can't then incorporate those
19 comments into the report into the extent we have
20 our own independent thoughts and comments as well
21 that help facilitate our own changes to our
22 report that's helpful. So keeping that in mind,

1 those comments will get attached to the report.
2 Some of them may be complementary to the reports
3 that we receive. But we should keep in mind that
4 it is also for us an opportunity to do a self-
5 check on what we saw from our own draft report
6 and then have that opportunity.

7 It is a small window, but it was
8 important for me to try to facilitate that and
9 even understanding that we also need time for
10 that ability for the Secretary to then look at it
11 and facilitate her own challenges in what that
12 may mean in terms of the next steps. So I just
13 wanted to sort of share that because it may seem
14 like why are we finalizing this with a vote to
15 give me that authority. So it's not that I'm
16 looking to grab that authority. I really am
17 trying to facilitate moving it forward. So it's
18 important.

19 We do have a punch list. I don't
20 think we need to run through that punch list.
21 But we will send that out. Mark?

22 MEMBER HERETH: I believe we still

1 need to vote on the other recommendations --

2 CHAIR BURMAN: Yes. Thank you --

3 MEMBER HERETH: -- that we discussed
4 here.

5 CHAIR BURMAN: -- for reminding me.
6 Thank you. If you want to make that motion then.
7 You can just make one global one.

8 MEMBER HERETH: So I make a motion
9 that we vote to approve the recommendations that
10 were presented this morning with the changes that
11 were made in technology, process sharing,
12 competency and training, best practices, legal
13 and regulatory, and funding and move those
14 forward.

15 MEMBER COTE: Seconded.

16 CHAIR BURMAN: Okay. Any discussion?
17 All those in favor, please say aye.

18 (Chorus of ayes.)

19 CHAIR BURMAN: Opposed? Abstentions?
20 Hearing none, the motion passes unanimously.
21 Then we did receive a public comment via email
22 and it was from someone. John Byrd I believe his

1 name was. Is he here? So he had spoken I think
2 at the last meeting on geospatial data and had
3 asked that it be included in the report. I do
4 believe he spoke to some folks individually.

5 To the extent that the public
6 comments, there will be -- reach out to him on
7 his public comment being incorporated into a
8 formal comment. He did have a particular
9 position and we will welcome that as a formal
10 comment being submitted after the January 8th
11 report. And then it can be attached to the
12 extent -- and to the extent that I know he would
13 likely reach out to people. I think it's
14 important he knows that we did hear from him and
15 we will do that.

16 PHMSA's general counsel is very clear
17 that the public comments, we can't incorporate
18 specifically into our reports but to the extent
19 that it is important that we incorporate in the
20 attachments we will. So we will encourage him to
21 do so. So with that, is there anything else that
22 we have substantively to discuss? Okay.

1 DR. MURRAY: One point, I know there
2 was a lot of discussion over whether to move the
3 scope and methodology above the background or
4 not, what would be the committee's pleasure on
5 that. These things will help us to provide a
6 better draft. And I know that seems minor, but I
7 think that's one of the moving pieces that I
8 heard about several times. And it showed up on
9 the punch list as well.

10 MEMBER JENSEN: Leif Jensen. I was
11 not part of the dialogue with respect all that
12 change because I had to drop off the telecom last
13 Thursday earlier. But when I read the report, I
14 think of the reports that I've had to author and
15 my history in trying to capture the attention of
16 people who have a lot coming at them. They have
17 competing demands for their time. They're
18 typically very fast thinkers and they want a
19 quick read.

20 So in my mind, the report should be
21 structured with the executive summary up front,
22 an abbreviated version of the necessary

1 background so as to capture the attention of the
2 Secretary and whomever she's going to delegate
3 the responsibilities to, to filter through all of
4 this and summarize this for her.

5 Now, I say that under the context that
6 I've been working in corporate America for my
7 entire career. And the whole process within
8 government may be completely different. But I
9 just want to make sure that if my assumption is
10 correct that it captures the reader right away
11 and they're convinced that, yes, we have a
12 problem. Here's an abbreviated version of our
13 solution and to rationalize the decision to stand
14 up the VIS with a short five-minute read.

15 DR. MURRAY: Dan?

16 MEMBER COTE: I agree absolutely with
17 Leif in that order. I think we need to make a
18 very definitive statement of what it is we want
19 to do and why in that executive summary and then
20 the background and the other stuff. I agree. If
21 we capture them in that first set of statements,
22 then we've got them. And if don't, then we're

1 out of luck.

2 DR. MURRAY: So to clarify, the
3 executive summary is already first. It's just a
4 matter of getting the right verbiage in it that
5 you'd like?

6 MEMBER COTE: Exactly.

7 DR. MURRAY: And then if you look at
8 what we have here, what I'm asking about
9 specifically is the order of what you see listed
10 in the table of content, recognizing that there
11 will be substantive changes made in terms of
12 language to many of these sections.

13 CHAIR BURMAN: I thought we also had
14 discussed a prologue as well. The conclusion was
15 the prologue. That's Randy's words, right?

16 MEMBER PARKER: That piece was written
17 to capture the reader's attention.

18 DR. MURRAY: Up front. And the
19 prologue, where do you see that fitting in?

20 CHAIR BURMAN: Before the executive
21 summary?

22 MEMBER BELLAMY: So Michael Bellamy

1 with Baker Hughes. So I was the one who put it
2 on the punch list and I was also the one who
3 raised it on last Thursday's call. And it really
4 came from a repeat, effectively, what the
5 rationale I gave last Thursday which is that the
6 way when you read it sequentially today, the
7 report, the background material is a big chunk of
8 stuff that gets into a lot of detail. And then
9 we take the reader almost back to the beginning
10 again by saying, okay, and by the way, this is
11 what we were tasked to do. And by the way, this
12 was the method we used to do it.

13 So if the background was slimmer, then
14 that dissonance wouldn't be quite so strong. Or
15 alternatively, you do it in a different sequence
16 which is to say here's the introduction. By the
17 way, this is the scope. Here's the methodology.
18 And then we start to get into the big chunky
19 stuff because today that background is a chunky
20 read.

21 CHAIR BURMAN: Christopher?

22 MEMBER WARNER: Just to add to that.

1 The other thing in the background is specific
2 recommendations. And it seems out of place to
3 put recommendations before we discuss what our
4 scope and our methodology was. So again, I think
5 that's the reason it should drop below.

6 DR. MURRAY: The recommendations in
7 the background section?

8 MEMBER WARNER: In the background
9 section, we have lessons learned and
10 recommendations that resulted from learnings.
11 And so that's why I think it should drop below
12 the methodology.

13 CHAIR BURMAN: Okay. Good point.

14 MEMBER PARKER: I agree that we ought
15 to do the scope and methodology before the
16 background section.

17 CHAIR BURMAN: Anyone else on the
18 phone or in the audience?

19 DR. MURRAY: And then the next
20 question refers to --

21 CHAIR BURMAN: Dan?

22 MEMBER COTE: Just one follow-up

1 comment. Again, I agree with Michael's analysis
2 and would strongly recommend that that background
3 piece be edited substantially. There is a lot of
4 detail on that. I remain unconvinced all of it
5 is necessary.

6 DR. MURRAY: And then the other
7 question was pertaining to the time line or the
8 Gantt chart that was discussed earlier and where
9 that should reside. I think the last thing I
10 heard was in the conclusion. And I just want to
11 make sure I can get a confirmation. Okay.

12 MEMBER PERRY: But I think -- so I
13 think it should be in the conclusion, the whole
14 thing. I'm wondering if we shouldn't reference
15 it, though, in the executive summary to make it
16 obvious that there's a plan.

17 MEMBER PARKER: Yes, that's a good
18 idea.

19 CHAIR BURMAN: Mark?

20 MEMBER HERETH: I'll just offer that
21 in the emails that went at various times with
22 that Gantt chart, there's text that describes

1 what's in it, why it's in it, what it's trying to
2 accomplish. And I'll work with whoever to try to
3 capture that language so that we're not having to
4 reinvent the wheel on that.

5 CHAIR BURMAN: Anyone on the phone?
6 In the audience?

7 DR. MURRAY: I think there are only
8 five or six. But most of them were covered
9 through the conversation yesterday. I don't see
10 anything that wasn't already covered.

11 CHAIR BURMAN: Okay, great. Before I
12 give some concluding remarks, does anyone have
13 anything else? Because we've gone through the
14 punch list. I think we've gone through
15 everything. Did we make our final vote? We did
16 that. So we've gotten all of that. Anyone on
17 the phone have any comments or in the audience?
18 Okay. I do just -- I feel the necessity to make
19 a formal statement. So if you'll sort of bear
20 with me.

21 This group was -- first of all, before
22 I do that, before I forget, I do want to say a

1 special shout out to Kevin Spicer who works with
2 me in New York. I came on in 2013 as a state
3 regulator, very new even though I previously been
4 there as special counsel. And Kevin really
5 worked with me knowing that I was very interested
6 in gas issues and pipeline safety in particular.
7 And he really is an incredible individual, and
8 I've learned a great deal and it's a real
9 pleasure to work with him and continue to do so.

10 And I really also want to say a
11 special thank you to Dr. Murray. I'm very
12 blessed with the PHMSA staff and in particular I
13 can't imagine that we would've gotten anywhere
14 without her. And it's a real credit to PHMSA.
15 You really are just a -- I mean, you're great.
16 So really, just amazing.

17 (Applause.)

18 DR. MURRAY: I just have to add that
19 it was not a one-person show. So hats off to all
20 of PHMSA staff who's worked with the
21 subcommittees in the group.

22 CHAIR BURMAN: It's amazing. This

1 group was formed to address a congressional
2 mandate in the PIPES Act of 2016. We were
3 charged with determining the feasibility of a
4 Voluntary Information-Sharing System to encourage
5 collaborative efforts to improve pipeline
6 assessment information and information sharing
7 with the purpose of improvement integrity risk
8 analysis.

9 At one of our initial meetings, we
10 appropriately emphasized the scope of this study
11 include gas distribution pipelines. Our work
12 charge has been focused on continuous
13 improvements, asking ourselves why and how. And
14 we kept in mind what do we want and desire to do.

15 As Skip Elliot shared yesterday, the
16 high level focus on a VIS like SMS needs to be
17 done in a workable way that showcases it leads to
18 a more sustainable and improved safety in an
19 innovative way. This is a crucial time for
20 energy regulators and industry to be involved
21 with pipeline safety.

22 Every day in my role as a state energy

1 regulator alongside my fellow commissioners and
2 the dedicated staff at the Department of Public
3 Service, I endeavored to work hard to find ways
4 to deliver to New Yorkers the natural gas they
5 need in a way that is safe and reliable, that is
6 fair at a cost to residential customers and
7 businesses alike, and is environmentally
8 sustainable and economically good.

9 It is quite frankly my dream job and
10 one that I take very seriously. As a regulator,
11 I endeavor to continue to foster awareness and
12 understanding of the issues affecting the
13 transportation, distribution, and sale of natural
14 gas in a safe, efficient, reliable, economic, and
15 environmentally responsible way.

16 The critical issues we deal with
17 revolve around the paramount threshold one of
18 pipeline safety. I truly believe we can get to
19 zero incidences and we can do so in my regulatory
20 lifetime. My goal as VIS working group chair was
21 to work collaboratively with the working group
22 membership and PHMSA and interested stakeholders

1 to hopefully leave a lasting, impactful legacy.

2 Assisting me in achieving this goal,
3 I've been blessed not only an incredible,
4 diverse, substantive, and other working group
5 membership but one powered by outstanding PHMSA
6 staffers working tirelessly behind the scenes.

7 We'll soon be finalizing this report.
8 My goal in finalizing will be to incorporate
9 transparently, effectively, and justly your
10 directives and thoughts conveyed throughout this
11 working group process.

12 I see this report after being handed
13 up as a viable vehicle to be used as a tool for
14 consideration for the next necessary steps to
15 hopefully continue the vision of the Voluntary
16 Information Sharing working group's outstanding
17 work. But really the vision that was given to us
18 to work on under the congressional mandate.

19 It is urgently needed so we can close
20 the gap between the aspirational goal of zero
21 incidences and the actual zero incidences. This
22 was your working group. Each one of us had a

1 specific area of focus and each one of us brought
2 unique thoughts, talents, perspectives, and
3 passion to the working group. I was honored to
4 serve as part of this time, and I thank each and
5 every one of you. Thank you.

6 (Applause.)

7 DR. MURRAY: And if I could just add
8 and give my sincere thanks to everyone on the
9 committee, PHMSA staff, all of the tech writers,
10 and even those who have consistently with us from
11 the audience throughout this effort. Job well
12 done.

13 I think that the work of this
14 committee over the past two years has been
15 outstanding and it was quite a bit achieved and
16 accomplished in a relatively short amount of
17 time. I've worked on a number of committees,
18 working groups, you name it. And by far, this
19 one certainly has produced results in record
20 speed time with the level of quality and just the
21 substantive content that has been provided. So I
22 thank each of you for volunteering your time and

1 effort.

2 I had been my distinct pleasure to
3 work with you, Commissioner Burman. I look
4 forward to any opportunity I can in the future
5 and any of you on the committee for that manner.
6 This has been an extremely positive experience,
7 and I certainly cannot wait to see what happens
8 in the next VIS phase as it moves forward. And
9 we're going to claim it today.

10 And so the last thought that I have,
11 and I keep telling my sons this. The difference
12 between those who say I can -- or actually, those
13 who say I can and I can't are usually both right.
14 And so when you think about getting the zero with
15 safety, there's always the sentiment you'll never
16 achieve it. But it's in the pursuit of
17 excellence and the pursuit of continuous
18 improvement that we all have in common and should
19 be striving for.

20 So thank you very much. I would like
21 to request that we can take at least a group
22 picture to memorialize the two years we worked

1 because I don't think we've ever done that. And
2 also, there's cake for those who want to stick
3 around and just have a piece or grab a piece on
4 your way out just to say thank you and
5 congratulations.

6 (Appause.)

7 (Whereupon, the above-entitled matter
8 went off the record at 1:37 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: VIS System Working Group

Before: US DOT/PHMSA

Date: 12-19-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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