

UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

Walnut Room  
Clarion Inn & Suites  
2200 IH-35 South  
Austin, Texas

Wednesday,  
May 8, 2002

8:00 a.m.

MEMBERS PRESENT

DAVID CARTER, Chairman  
OWUSU A. BANDELE  
KIM M. BURTON  
GOLDIE CAUGHLAN  
ANN L. COOPER  
DENNIS L. HOLBROOK  
T. MARK KING  
MICHAEL P. LACY  
WILLIAM LOCKERETZ  
KEVIN R. O'RELL  
NANCY M. OSTIGUY  
JAMES RIDDLE  
GEORGE L. SIEMON

STAFF PRESENT:

KATHERINE BENHAM  
KEITH JONES  
RICHARD MATHEWS  
ARTHUR NEAL  
ROBERT POOLER  
BARBARA ROBINSON  
TONI STROTHER

I N D E X

| <u>SPEAKER/ITEM</u>            | <u>PAGE</u> |
|--------------------------------|-------------|
| Access to Outdoors for Poultry | 688         |
| Marty Mesh                     | 720         |
| Livestock Committee Report     | 726         |
| Materials Committee Report     | 729         |
| Processing Committee Report    | 730         |
| Crops Committee Report         | 731         |
| International Committee Report | 736         |
| Accreditation Committee Report | 737         |
| Board Policy Task Force Report | 741         |
| PUBLIC COMMENT:                |             |
| Carolyn Brickey                | 744         |
| Randy Duranceau                | 749         |
| Tina Ellor                     | 755         |
| Zea Sonnabend                  | 760         |
| Harriett Behar                 | 763         |
| Diane Joy Goldman              | 769         |
| Arthur Harvey                  | 773         |
| Susan Ulery                    | 777         |
| Emily Brown Rosen              | 784         |
| Mary Mulray                    | 791         |
| Marian Casazza                 | 795         |
| Leslie Zuck                    | 798         |
| Marty Mesh                     | 802         |
| Liana Hoodes                   | 808         |

Brian McElroy

810

|  |     |
|--|-----|
| Amelia Adams                                     | 815 |
| Doug Crabtree                                    | 820 |
| George Bass                                      | 824 |
| Brian Leahy                                      | 826 |
| Phil LaRocca                                     | 831 |
| Pete Gonzalues                                   | 836 |
| CLOSE OF PUBLIC COMMENT                          | 837 |
| Clarification:<br>Access to Outdoors for Poultry | 837 |
| September meeting                                | 839 |
| October meeting                                  | 840 |

P R O C E E D I N G S

1  
2 MR. CARTER: Okay. We'll reconvene the  
3 meeting, just starting off with some announcements. It  
4 was brought to my attention yesterday that there were some  
5 conversations going on out here that were somewhat  
6 distracting, and so if you do have some conversations, I  
7 know that NOSB business, as a spectator sport, can be  
8 boring sometimes, but if you do need to say something,  
9 please go out in the hall.

10 We'll also, this morning -- during the public  
11 comment on Monday, Marty Mesh asked some questions to  
12 Rick, and Rick asked Marty to find some answers, and  
13 apparently Marty has found some answers, so we'll ask him  
14 to come up and give a brief report on the certified  
15 organic labeling issue.

16 MR. MATHEWS: I think you can do it during your  
17 five minutes, Marty.

18 MR. CARTER: See, I feel so guilty that I  
19 skipped over him on Monday, I'm trying to make amends  
20 here.

21 I'm sort of stalling around because we're  
22 waiting for some copies to get back to George. So that  
23 being the case, Marty, why don't come up and give us --

24 (Pause.)

1           MR. CARTER: So as we said, yesterday, now we  
2 are delaying -- or we have held over the action, again, on  
3 the issues of poultry access to the outdoors and the dairy  
4 herd replacement issue, so I'll call on George, chair of  
5 the Livestock Committee.

6           MR. SIEMON: Okay. Well, we're handing out the  
7 latest draft of the access to outdoors that we did last  
8 night. I did not italicize the changes, which I should  
9 have, but really all we did was add a consideration of  
10 time to come in compliance with access to outdoors, just  
11 to clarify, since there's been such a debate here, to give  
12 people a reasonable amount of time to come in full  
13 compliance.

14           And that's -- I'll read what we added; then  
15 I'll read the whole thing, but, "A producer shall  
16 demonstrate reasonable progress in efforts to comply with  
17 this provision; full compliance shall be completed no  
18 later than 18 months from October 21, 2002," which is  
19 April 21, 2004.

20           Okay. And then I can read the whole thing.

21           Nancy, we did just a few modifications to your  
22 language afterwards.

23           Unfortunately, they don't have any overhead  
24 things here; otherwise I would have done it for the crowd.

1 You want me to read the whole thing now?

2 MR. CARTER: Please.

3 MR. SIEMON: Okay. The motion is "NOSB  
4 recommends the following clarification to the final rule's  
5 requirement that poultry shall have access to outdoors:

6 "1. Organically managed poultry must have  
7 access to outdoors. Organic livestock facilities shall  
8 give poultry the ability to choose to be in the housing or  
9 outside in the open air and direct sunshine. The  
10 producer's organic system plan shall illustrate how the  
11 producer will maximize and encourage access to the  
12 outdoors. A producer shall demonstrate reasonable  
13 progress in efforts to comply with this provision; full  
14 compliance shall be completed no later than 18 months from  
15 October 21, 2002 (April 21, 2004).

16 "2. The producer of organically managed  
17 poultry may, when justified in the organic system plan,  
18 provide temporary confinement because of:

19 "a. Inclement weather;

20 "b. The stage of production, sufficient  
21 feathering to prevent health problems caused by outside  
22 exposure;

23 "c. Conditions under which the health safety  
24 or well being of the poultry could be jeopardized;

1 "d. Risk to soil or water quality."

2 MR. CARTER: Okay. That is the motion. Is  
3 there a second?

4 MS. OSTIGUY: Second.

5 MR. CARTER: Okay. Nancy seconded.

6 Okay. It's on the table for discussion.

7 MR. SIEMON: Just no matter how we try to  
8 discuss this, it's really clear that the rule says access  
9 to outdoors, so we're just trying to put some  
10 clarification to it. There's not much debate in the  
11 committee, at least, about that. This is a 4-1 vote by  
12 the committee, but we do acknowledge that we really feel  
13 it's clear in the rule, and we're just trying to see how  
14 many times we can say the word "outdoors."

15 Well, is there any discussion?

16 MR. BANDELE: Yes. What was the nature of the  
17 dissenting vote? What was the reason for that?

18 MR. SIEMON: Just the basic premise that being  
19 outdoors is not necessarily the best for the welfare of  
20 the bird, and that's just basically arguing, again, with  
21 the basic fact whether it's in the rule or not, but still  
22 that was the question.

23 Mike might want to make one comment.

24 MR. LACY: I was the dissenting vote, and I

1 think I explained it as best I could yesterday, that in my  
2 opinion, the science does not back up that access to  
3 outdoors is in the best interest of the bird from a health  
4 and welfare standpoint or in the interest of the consumer  
5 from a food safety standpoint.

6 MR. CARTER: Okay. Goldie?

7 MS. CAUGHLAN: I'm, I guess, surprised that  
8 there's still no language in here concerning material on  
9 the -- underneath the feet of the birds. In other words,  
10 it's totally left blank, and I had thought that there  
11 would at least be some indication.

12 What is the thinking of the majority in that  
13 regard?

14 MR. SIEMON: This is just one aspect of the  
15 whole rule, so the rest of the rule has to think about  
16 manure management, living conditions, since we're trying  
17 to depend on the rest of that, but the reason that we  
18 didn't go to the whole issue of pasture or dirt and that  
19 kind of thing, which is really the question -- do you do  
20 square feet, is one question, which we fairly don't feel  
21 is the way to go because of variations between different  
22 types of poultry, of laying hens, broilers, turkeys,  
23 ducks, all the different things.

24 And the other one is about dirt, grass, or

1 concrete. The reality is out there there's lots of houses  
2 that are going to be very difficult to have access to what  
3 would be called an ideal pasture situation. That's just  
4 the reality out there.

5           So it was just our feelings that even if people  
6 had a concrete area outdoors, there's ways they can even  
7 make that so it has value, and that is by having a manure  
8 compost pile out there and letting the chickens scratch  
9 and deal with that and still have complete containment for  
10 manure runoff, because the issue is complete containment  
11 for manure runoff; it's one of the things we've heard from  
12 the people here.

13           And so doing the dirt would require -- you  
14 know, for a 10,000-bird house, it would require at least  
15 six acres of pasture land around to have a decent dirt  
16 system, and not every facility can do that.

17           So we were really trying to deal with the  
18 outdoors, not the nutrition and not the earth; it's a very  
19 debatable part.

20           MS. CAUGHLAN: I understand that, but I'm  
21 asking, no kind of litter, no kind of -- nothing under  
22 feet? I'm not expecting necessarily pasture. I think  
23 that that at this stage of development is highly unlikely  
24 and not in the interest of the growth of the organic

1 poultry industry.

2 But I think that consumers, in particular, are  
3 expecting some form of wording that does give indication  
4 that the intent -- I understand this is not, as Rick has  
5 reminded us, regulatory language, but that the intent, the  
6 guidance given to these certifiers, to these producers --  
7 I'm not comfortable that there's not at least any kind of  
8 indication.

9 MR. CARTER: Okay. Rick has got a comment, and  
10 then Willie's got a comment then.

11 Go ahead.

12 MR. MATHEWS: This provision, at least in part,  
13 would clarify that accesses to the outdoors means the bird  
14 has to go outdoors, and that is what we would enforce, and  
15 it would be enforceable.

16 So from that standpoint, it is not just  
17 guidance; it is a clarification of the regulation, which  
18 states they have to go outside the building.

19 MS. CAUGHLAN: Right. I understand that. I  
20 never needed it clarified. I knew from the reading of the  
21 rule that it said "outdoors," and outdoors means outdoors.

22 But outdoors, in some kind of guidance that  
23 tells us what outdoors -- the minimum of what outdoors  
24 means is what I would at least expect.

1 MR. CARTER: Okay. Willie?

2 MR. LOCKERETZ: I have to say that I quite  
3 agree with Goldie. I voted "yes" on this proposal when  
4 the choice was yes or no; I voted "yes." But I argued for  
5 but didn't get some minimum standards as far as the  
6 material and the area per bird and so forth. I thought it  
7 left too much to the certifiers, and there was no  
8 meaningful floor below which people couldn't go, not in  
9 the literal sense.

10 So I agree with Goldie, despite -- but I ended  
11 up, when the choice was this or nothing, I went with this.

12 MR. CARTER: Okay. Nancy.

13 MS. OSTIGUY: I also voted for the  
14 recommendation as it stands; was very uncomfortable with  
15 putting numbers to any of this, because, while a new board  
16 member, this was the first that I'd really dealt with  
17 this, and if we're going to put numbers to something, in  
18 my opinion, I need to know what I'm talking about.

19 And I was the one that brought up that we'd  
20 have to have different area requirements for different  
21 species, potentially different breeds. I don't know  
22 enough about poultry to have done that from when I arrived  
23 here till today.

24 If the board wishes to direct the Livestock

1 Committee to go back and find out that information to come  
2 back with a recommendation that would then be more  
3 specific on area scratch, et cetera, we could do that.

4 MS. CAUGHLAN: Viewing this as a starting point  
5 and building from that.

6 MS. OSTIGUY: Yes.

7 MS. CAUGHLAN: I could support something of  
8 that nature.

9 MR. CARTER: Okay. Other discussion?

10 MR. SIEMON: Well, just that was kind of the  
11 job given to us yesterday afternoon, about coming up with  
12 some more specificity, and we just weren't able to weave  
13 our way through.

14 We tried the square foot; that seemed to not be  
15 the way to go, so -- if we were to go -- let's use this as  
16 a foundation, and then I'd like some more clarity as to  
17 what we're after.

18 MR. CARTER: Jim.

19 MR. RIDDLE: Yes. I would like to move forward  
20 with a vote on this as well, and I just want to point out  
21 one thing in the rule that we haven't really mentioned on  
22 this, and that is under the Livestock Health Care Practice  
23 Standard, that the item number 4, under (a)(4), Provision  
24 of conditions which allow for exercise, freedom of

1 movement, and reduction of stress appropriate to the  
2 species -- and for poultry, that reduction of stress would  
3 include the ability to scratch.

4           And birds on concrete would have to have some  
5 kind of a natural material, whether it's sawdust or  
6 compost or something to be able to perform their natural  
7 behavior; they get pretty stressed trying to just scratch  
8 concrete, I would think.

9           So that, as an inspector, is one thing I would  
10 look at in a poultry operation: Is there some scratching  
11 material provided for the birds, even if there's concrete  
12 under it to contain any runoff or leaching.

13           So that's one thing, and I also wanted to come  
14 back to the language itself and just reiterate that the  
15 "temporary" means temporary, and that already is in the  
16 rule that the system itself must be structured to provide  
17 access. And temporary cannot be six months out of the  
18 year, or the entire year is not temporary. The system has  
19 to provide access.

20           And I just wanted to emphasize that point as  
21 well.

22           MS. CAUGHLAN: Yes. I went back and looked at  
23 that, also, and what I was seeing was that the intent is  
24 very clear that you, as an inspector -- whoever comes

1 through as an inspector must be able to see that the  
2 producer can demonstrate that in fact they have the full  
3 access in place when they're asking for the temporary --  
4 it can't be used as a dodge.

5           So if you're in there, if you're inspecting,  
6 Jim, if you come to a facility and you're inspecting it  
7 and there's bare concrete -- let's say there appears to be  
8 plenty of room for the bird to move around; there's some  
9 degree of access to sunshine, but one of these  
10 indicators -- the fact that it's on a completely bare  
11 situation, giving the bird no ability to scratch, pick,  
12 whatever, how would you, as a certifier, work with that?

13           MR. CARTER: Jim?

14           MR. RIDDLE: Yes. Well, as an inspector, that  
15 would be one of the concerns I would identify during the  
16 inspection, mention it at the time that I observe the  
17 situation, then mention it in the exit interview at the  
18 conclusion of the inspection.

19           It would go in the report, identified as a  
20 potential noncompliance, and as the certifier makes the  
21 decision, they would have to way that in relation to other  
22 issues for the operation in whether the operation can be  
23 certified.

24           If that was the only minor noncompliance, it

1       could be something that they're given a certain length of  
2       time -- three months or whatever -- to correct. So they  
3       could be certified but with the requirement that that be  
4       corrected for the certain reasons cited in the rule, but  
5       then related to that site-specific situation.

6                   MS. CAUGHLAN: Follow-up.

7                   MR. RIDDLE: But it couldn't -- they couldn't  
8       be just continually certified without addressing that  
9       noncompliance.

10                  MS. CAUGHLAN: Right. Follow-up.

11                  MR. CARTER: Okay. Goldie.

12                  MS. CAUGHLAN: As we continue to watch this --  
13       as we continue, then, let's just say, as the -- as we see  
14       more and more operations bringing online larger and ever  
15       larger facilities with more and more concrete, would it  
16       not be safe to assume that that kind of diligent  
17       observation on the part of inspectors might fall farther  
18       and farther behind, because it becomes more of the norm  
19       that, after all, all of the other operations have the bare  
20       concrete as well.

21                  And I believe that that is exactly the  
22       direction that this kind of timidity that we're showing,  
23       in terms of placing a little bit more structure, is going  
24       to lead us.

1 MR. CARTER: Go ahead, Jim.

2 MR. RIDDLE: Well, I see several checks in  
3 that. I mean, that's one reason for inspector training  
4 being a requirement under the rule, so that inspectors  
5 know what to be looking for, and they're consistently  
6 understanding and applying the standard in their work, the  
7 same the certifiers -- that's the reason for this kind of  
8 a guidance document, is to help certifiers make those  
9 final decisions.

10 And if the certifiers are ignoring the  
11 requirements, then that -- the final check would be their  
12 accreditation. When their files are reviewed and it  
13 becomes apparent to the evaluators that they're certifying  
14 bare-concrete operations where the chickens are stressed  
15 and are not able to exercise their natural behavior, then  
16 they would be endangering their accreditation.

17 Those are the checks that I see --

18 MS. CAUGHLAN: I'm just suggesting we're  
19 setting up a norm, and once we set up a norm, it's going  
20 to be very difficult to see them being judged against that  
21 as being out of any kind of compliance.

22 MR. CARTER: Owusu.

23 MR. BANDELE: Yes. I wouldn't have any problem  
24 at all with Jim, as the certifier, making those kinds of

1 observations and recommendations.

2 My problem is with maybe certifiers without  
3 that historical background and also without that  
4 commitment to outdoors, and that's why I think that even  
5 though this draft is a good starting point, it really  
6 needs further clarification on that point, or the  
7 situations that Goldie is pointing out I think will in  
8 fact become the norm.

9 MR. CARTER: Okay. Willie.

10 MR. LOCKERETZ: To come back to Jim's answer  
11 about telling the operator that it's noncompliance; it's  
12 not noncompliant. There's nothing here that says a bare  
13 concrete floor is not allowed.

14 And to say that the mechanism for enforcing an  
15 unwritten requirement is first the inspector and, if that  
16 doesn't work, the certifying agent and, if that doesn't  
17 work, the accreditation comes into doubt, that's a very  
18 indirect and three stages removed from the original  
19 problem.

20 If bare concrete is automatically considered  
21 noncompliant, then why don't you say so in this language  
22 so that the operator can make a good-faith effort to come  
23 into compliance?

24 Somehow implicit in this is bare concrete is

1 not acceptable, but if that's the view, then it should be  
2 written into the language itself, instead of keep people  
3 guessing as to what is or is not compliant.

4 MR. CARTER: An amendment regarding prohibition  
5 against bare concrete would certainly be germane at this  
6 point, so if someone cares to --

7 MS. CAUGHLAN: I'll make such an amendment.  
8 I'll offer such an amendment.

9 MR. CARTER: And remember, just as important,  
10 it will also require some rulemaking on something like  
11 that.

12 MS. CAUGHLAN: Explain why at this point.  
13 There's other broadening or widening of the language, as  
14 we've just indicated. Why bother with a guidance thing?  
15 As I said, I have no problem reading the language which  
16 tells me that outdoors is outdoors, and yet we're offering  
17 here something that we're calling a guidance document.

18 If it is indeed a guidance document that it's  
19 necessary to talk about outdoors is outdoors, then why is  
20 it not appropriate, in this language, not requiring  
21 rulemaking at this juncture, to go ahead and specify that  
22 the intent of this is not bare --

23 MR. CARTER: Okay. Mike?

24 MR. LACY: If you are going to encourage birds

1 to go outside, the concrete is not going to stay there for  
2 any significant length of time, and I think this whole  
3 discussion is moot.

4 MR. SIEMON: Historically the farm plan has  
5 elevated the standard, leaving it up to the certification  
6 farm plan. I know that doesn't mean it will happen in the  
7 future, but historically it has been an effective tool to  
8 push farmers into better and better organic practices.

9 It has been effective, and we never want to  
10 underestimate the power of competition and peer pressure,  
11 you know, because that's part of what will be here also,  
12 this sensitive subject.

13 MR. CARTER: Okay. Jim, and then I'm going to  
14 ask Rick to weigh in on --

15 MR. RIDDLE: Yes. I would just like to add one  
16 more thing from the rule itself, which tells me this is  
17 clarification of the existing rule, and that is that  
18 the -- under the livestock living conditions: "Must  
19 provide living conditions which accommodate the natural  
20 behavior of animals."

21 So it's not just reduction of stress in one  
22 section, but also natural behavior, and the behavior of a  
23 chicken is to scratch, so there's got to be something for  
24 them to scratch; it's not just going to be bare concrete.

1           And, you know, Mike is saying that, well, if  
2 they're out there, yes, there's going to be chicken manure  
3 after a very short time for them to scratch in, but, you  
4 know, I would like to see some sawdust or something in  
5 addition to that, some bedding to help capture those  
6 nutrients in the manure and be a little more sanitary  
7 conditions, or disease suppression, possibly; not just  
8 scratching the manure itself.

9           MS. CAUGHLAN: That manure is not waste, and it  
10 needs to be captured.

11          MR. CARTER: I'd asked Rick to --

12          MR. MATHEWS: Yes. Actually Jim is right. If  
13 it was any kind of a wood surface, a metal surface, a  
14 concrete surface, if the bird isn't able to do the natural  
15 things that are required within the standards, then to  
16 come out and say you can't have those surfaces is correct,  
17 and that would not be rulemaking.

18          MS. CAUGHLAN: Thank you.

19          MR. CARTER: Okay. Mike.

20          MR. LACY: It's interesting that our discussion  
21 has gotten to health of birds. And I'll go back -- I'm  
22 sorry to repeat myself, but I'll go back one last time,  
23 that if you're interested in the health of birds, then I'm  
24 not sure that we're headed in the right direction.

1 MR. CARTER: Okay. I'm looking up and down the  
2 table --

3 MS. CAUGHLAN: We're back to the business of  
4 the amendment -- I mean, of adding wording to the language  
5 of this document that would specify that bare surfaces of  
6 concrete, metal, and such are not meeting the intent;  
7 something to that effect.

8 MR. CARTER: Okay. Is that an amendment?

9 MS. CAUGHLAN: Yes, if that's what we want --

10 MR. CARTER: Can you phrase it how you want it  
11 to read?

12 MR. SIEMON: Goldie, I just wonder. You just  
13 said you want us to do further work. Is this the place to  
14 do it, versus coming up with some checklist of things to  
15 look for when inspectors go through? -- because we just --  
16 if you --

17 MS. CAUGHLAN: If you want a meaningful vote  
18 today, George, that sends any kind of a meaningful  
19 message, I think what we have just discussed needs to be  
20 incorporated.

21 MR. SIEMON: All right.

22 MS. CAUGHLAN: Sure; it's awkward for me to sit  
23 here and try to come up with something right now. It's  
24 been awkward all along.

1           MR. SIEMON: The second line is where they have  
2 about facilities. I was just trying to see how to fit  
3 something in there, but I can't quite --

4           VOICE: Is there an amendment on the floor?

5           MR. CARTER: She's contemplating; there's an  
6 amendment being contemplated at this point. Contemplate  
7 does not -- okay; I'm not seeing an amendment being  
8 offered at this point, so I will move on. There's a  
9 separate item of discussion.

10           Rick?

11           MR. MATHEWS: I was there for part of this  
12 discussion last night, and upon further reflection, I need  
13 to point out something.

14           The last sentence in number 1 I would find  
15 unacceptable, and I'll tell you why. Certified operations  
16 must commence compliance by their anniversary date, as we  
17 have said all along, and so the way it works is that the  
18 certifying agent would be expected to tell their clients  
19 where they're in noncompliance; they would have to --  
20 according to the grandfather clause that we've been  
21 discussing for quite some time, would have up to and not  
22 beyond their anniversary date.

23           That is going to put a tougher restriction on  
24 some people than others, but I would hold that this rule

1 has been out since December of 2000, and people have had  
2 adequate time to start to come into compliance.

3 They've also -- you know, the proposed rule was  
4 out in March of 2000; there was another proposed rule in  
5 December of '97. This is not new news. So those who are  
6 not currently in compliance should be held to the  
7 grandfather clause of coming into compliance by their  
8 anniversary date.

9 Now, having said that, I understand that there  
10 are still problems with the fact that somebody who may  
11 have their anniversary date a week from now, a month from  
12 now, two months from now, may have problems with their  
13 local jurisdiction in the area of permits.

14 I think it's reasonable for certifying agents  
15 in those cases to work with those producers as far as  
16 their coming into compliance. They have to show due  
17 diligence. I would accept their going beyond the  
18 anniversary date, but only under the condition that they  
19 have to meet the state and local laws regarding permits  
20 for any construction that would have to be done.

21 MR. CARTER: Okay. So a suggestion has been  
22 made that we strike that sentence regarding a phase-in  
23 period. Is there anyone who wants to formally offer that  
24 as an amendment?

1 MS. OSTIGUY: I'd so move.

2 MR. CARTER: Nancy has moved. Is there a  
3 second?

4 MR. RIDDLE: Second.

5 MR. CARTER: Jim has seconded. Is there  
6 discussion on the amendment?

7 MS. CAUGHLAN: A question: Is this -- this is  
8 to strike the last line of paragraph 1?

9 MR. CARTER: First paragraph, so --

10 MS. CAUGHLAN: Yes. I --

11 MR. CARTER: The sentence reads, beginning, "A  
12 producer shall demonstrate reasonable progress" -- and  
13 continuing on through "2004)."

14 Okay. Willie?

15 MR. LOCKERETZ: To get back to Rick's comment,  
16 besides the possibility of delay because of having to meet  
17 various zoning and other local and environmental  
18 requirements, there's also the problem that here we're  
19 talking about capital investment, not changes in daily  
20 operations, and it takes time to build the building, not  
21 only -- maybe not as much time as to get permission to  
22 build it, but that's a factor that will -- I think that  
23 the producers are entitled to a reasonable amount of time  
24 to get all these things done.

1           Now, it's true that something wording like this  
2 was out there since December of 2000, but this kind of  
3 slightly more specific version or what I hope will become  
4 a more specific version has only been at the level of  
5 proposals and drafts and so forth, and I couldn't blame a  
6 producer who didn't act on the basis of draft  
7 recommendations, and when it becomes the real thing, then  
8 the clock should start to tick.

9           MR. CARTER: Okay. Jim, then George, then  
10 Goldie.

11           MR. RIDDLE: I would just like to point out --  
12 I mean, I understand what you're saying, Willie -- that  
13 organic is really -- no one forces you to go organic;  
14 you're making a choice, a voluntary choice to enter the  
15 organic market.

16           And in doing so, then you're agreeing to comply  
17 with all the rules, but this isn't a regulation that  
18 applies to every agricultural operator; these are only to  
19 those who choose to use the organic claim, and then they  
20 agree to follow the rules that are set out.

21           So, yes, they need to plan ahead. If they're  
22 planning to go organic, they should be getting those  
23 registrations that are needed, acquiring the capital,  
24 doing the construction to fit the rule, and whatever time

1 it takes, they need to do that before they apply for  
2 certification.

3 If they're already certified and are needing to  
4 make some of those changes to remain in compliance, then  
5 that is an issue of their organic plan and the certifier,  
6 but no one is forcing anyone to go organic.

7 MR. LOCKERETZ: Let me just answer. You used  
8 the phrase, to meet the rule, but it isn't rule. It's  
9 language, drafts, recommendations, proposals. It's not  
10 the rule until we make it the rule.

11 MR. MATHEWS: Willie, I have to disagree. The  
12 rule they have was published on December 21, 2000. The  
13 preamble clearly says they have to go outside. There were  
14 discussions as to whether or not people could meet those  
15 requirements by bringing the outside in.

16 The preamble I think has always been pretty  
17 clear that the intent was that the birds go outside.  
18 People were looking for another interpretation, and you --  
19 this body has attempted to clarify that even further, and  
20 therefore it is no different, really, than what's already  
21 been there for about two and a half years.

22 MR. LOCKERETZ: Then there's no need to vote on  
23 it.

24 MR. CARTER: Okay. Then George and Goldie.

1 MR. SIEMON: Well, I just wanted to support  
2 what Rick -- this motion to drop this last line, because  
3 our concern was, first off, to make sure there was an end  
4 to it, and also to acknowledge there's complications.

5 What I just heard Rick said shows to me the  
6 farm plan system will and his accreditation anniversary  
7 will answer the concerns we had here, so I support this  
8 motion. I'd like to see us move on.

9 MR. CARTER: Okay. Then Goldie, and then let's  
10 start to move toward a vote on this.

11 MS. CAUGHLAN: All right. So back to the issue  
12 of surface --

13 MR. CARTER: No. That's not germane to this  
14 discussion. We're discussing the amendment that's on the  
15 table, which is to delete the timing.

16 MS. CAUGHLAN: Okay. I waive.

17 MR. SIEMON: Can we call the question?

18 MR. CARTER: Okay. The question, if you're  
19 ready to vote -- okay; first of all, on any of these votes  
20 does anybody have a conflict of interest in this issue?  
21 Having commercial chicken operations.

22 MR. SIEMON: I have chickens.

23 MR. CARTER: Okay. You have chickens. Okay.

24 (General laughter.)

1 MR. KING: But are they chickens in the closet?

2 (General laughter.)

3 MR. CARTER: And I have to confess I've got  
4 some in the freezer.

5 (General laughter.)

6 MR. CARTER: Okay. All of those in favor of  
7 the amendment, which is to strike the language -- the last  
8 sentence of item number 1, "A producer shall demonstrate  
9 reasonable progress in efforts to comply with this  
10 provision; full compliance shall be completed no later  
11 than 18 months from October 21, 2002" -- all those in  
12 favor signify by raising your hand.

13 (A show of hands.)

14 MR. CARTER: Opposed, same sign.

15 (Mr. Lockeretz raised his hand.)

16 MR. CARTER: Abstentions.

17 (No response.)

18 MR. CARTER: Okay. Let's see. We're now at  
19 13, so it's 12 to one.

20 The amendment carries.

21 Now we're back open for the other discussion,  
22 Goldie.

23 MS. CAUGHLAN: Thank you. All right. So we'll  
24 try this one; add it as a number 3 to the current access

1 to outdoors for poultry recommendation; number 3 to read,  
2 Bare surfaces -- e.g., metal, cement, wood -- do not meet  
3 the intent of the rule.

4 MR. CARTER: Can you repeat that one more time.

5 MS. CAUGHLAN: Bare surfaces -- e.g., metal,  
6 cement, wood -- do not meet the intent of the rule.

7 MR. CARTER: Okay. Is there a second to the  
8 amendment?

9 MS. OSTIGUY: Second.

10 MR. CARTER: Okay. It's been seconded by  
11 Nancy. Okay. Discussion? Mike?

12 Well, first of all, Goldie is presenting the  
13 amendment. Do you want to explain it at all? You still  
14 have your mike on; that's why I'm --

15 Okay. Then, Mike, go ahead.

16 MR. LACY: So are you saying that concrete is  
17 not an acceptable surface?

18 MS. CAUGHLAN: It's bare.

19 MR. LACY: So do you need to define what's not  
20 bare?

21 MS. CAUGHLAN: Bare is bare.

22 MR. LACY: So once the chickens are out on the  
23 concrete for a day or two, the concrete is no longer bare,  
24 and if that's the case, why do we need this?

1 MR. CARTER: Okay. Goldie?

2 MS. CAUGHLAN: If these are natural chickens,  
3 as I'm assuming they are, I sure as hell hope that that  
4 cement or whatever that they'd be put on wouldn't be bare  
5 after a few hours, because that material is good material;  
6 it's not waste material.

7 I think the intent is pretty obvious in what  
8 I'm putting forth, which is that a system be in place that  
9 if in fact the underpinning is cement or metal or  
10 whatever, that there be a means of catching the droppings  
11 of the chicken, which are not waste but which are good and  
12 which need to be respected as material.

13 MR. CARTER: Okay. Jim and then George.

14 MR. RIDDLE: Yes. Back to the rule.

15 205.239(a)(3): Producer must provide appropriate clean,  
16 dry bedding. That's another requirement, so in a way,  
17 what Mike is saying, yes, that bedding is already a  
18 requirement under the rule, so bare surfaces in and of  
19 themselves wouldn't be allowed, but we're offering  
20 clarifications here.

21 MS. CAUGHLAN: But my chickens didn't ever  
22 sleep out in those areas; they had their bedding in their  
23 nests.

24 MR. RIDDLE: We're offering clarification that

1 adds to -- that complements the language that's already in  
2 the rule, and I see no harm in stating this as an  
3 amendment to the motion, so I'll support it. But it's  
4 fully consistent with rule language already.

5 MR. CARTER: Mike?

6 MS. CAUGHLAN: See, it's this other information  
7 that's --

8 MR. CARTER: Mike first.

9 MR. LACY: Jim, I'm not as familiar with the  
10 rule yet as you are, but I would assume that that clean,  
11 dry bedding would have to apply to inside bedding, because  
12 the first time it rains, that bedding is not going to be  
13 dry, and does that mean that you're going to require that  
14 that bedding be replaced outdoors?

15 MR. CARTER: Okay. Question directed to Jim.

16 MS. CAUGHLAN: The word "outdoors" -- the  
17 scratch outdoors is not bedding.

18 MR. CARTER: Okay. The question has been  
19 called. And for members of the audience, when somebody  
20 calls the question, that's an informal -- that's not a  
21 direct motion; it's just indicating that some members want  
22 to vote.

23 So the question has been called on this. If  
24 there is no further discussion, we'll proceed to vote.

1 All of those --

2 MR. LOCKERETZ: Could you read the amendment  
3 again.

4 MR. CARTER: Okay. The amendment is -- please  
5 read the amendment, Goldie.

6 MS. CAUGHLAN: Three --

7 MR. CARTER: With your mike on.

8 MS. CAUGHLAN: Three: Bare surfaces -- e.g.,  
9 metal, cement, wood -- do not meet the intent of the rule.

10 MR. CARTER: Okay.

11 MR. BANDELE: A question, though, Goldie --  
12 like you could have a bare soil type situation, so what  
13 are you -- so would bare soil also be not allowed?

14 MS. CAUGHLAN: Shall we say bare  
15 nonagricultural --

16 (General laughter.)

17 MS. CAUGHLAN: I mean --

18 MR. CARTER: How about just removing the  
19 "e.g."?

20 MS. CAUGHLAN: All right. I'll accept that as  
21 a friendly --

22 MR. LOCKERETZ: Then think for a minute about  
23 all the ones that you want to add to the --

24 MS. CAUGHLAN: I also don't want plastic. How

1 about that? I mean, let's get serious?

2 VOICE: What about fiberglass?

3 MS. CAUGHLAN: Fiberglass.

4 VOICE: We could be here all day.

5 MR. BANDELE: Would man-made surfaces -- would  
6 that help?

7 MR. SIEMON: No. The issue is not about  
8 concrete or not; the issue is we don't want bare concrete.  
9 That's what you're trying to fix here. Right? So I'm --

10 MR. CARTER: Okay. Just as a clarification to  
11 this, or a suggestion from the chair: bare, man-made  
12 surfaces?

13 MS. CAUGHLAN: Well, what about wood?

14 MR. CARTER: It's still man-made if it's  
15 processed.

16 MS. CAUGHLAN: All right. Bare, man-made  
17 surfaces -- how about woman-made?

18 MR. CARTER: This is a chance in the amendment,  
19 so it needs to be --

20 MS. CAUGHLAN: Bare, human-made, to satisfy the  
21 libbers of us.

22 MR. CARTER: Okay.

23 MS. CAUGHLAN: Bare, human-made surfaces; e.g.,  
24 metal, cement, wood, plastic --

1 VOICE: Wood's not human-made, but it's  
2 processed.

3 MS. CAUGHLAN: -- do not meet the intent of the  
4 rule.

5 MR. CARTER: Okay. We're having a little  
6 discussion here on just formulating this amendment. I  
7 apologize. But what we're really trying to get at is  
8 surfaces other than soil, so why don't we say --

9 MS. CAUGHLAN: Surfaces other than bare soil --  
10 bare surfaces other than bare soil do not meet the intent  
11 of the rule.

12 MR. CARTER: Yes. Bare surfaces other than  
13 soil do not meet the intent of this rule.

14 Is that what I heard you say, Goldie?

15 MS. CAUGHLAN: Yes, it is.

16 MR. CARTER: Okay. Is that an amendment?

17 MR. BANDELE: Only problem there is bare  
18 surfaces -- even bare soil is not really sustainable in  
19 terms of erosion and that type of thing, so -- I mean,  
20 that's just point.

21 VOICE: That's covered under --

22 MS. CAUGHLAN: That is covered under the other  
23 parts --

24 MR. CARTER: Yes. That's covered under other

1 parts of the rule. Okay. So that is -- now, the maker of  
2 the original amendment has changed her amendment. Is that  
3 okay with the seconder?

4 Nancy continues to second that. Okay.

5 Now, are we ready to vote on the language that  
6 says --

7 MR. BANDELE: One final point: It seems to me  
8 that the amendment would be better placed as 2 as opposed  
9 to 3, because it's still in conjunction with point 1.

10 MS. CAUGHLAN: Okay. I'd accept that. Okay.  
11 Just reverse the positioning. Fine with me.

12 MR. CARTER: Okay. Friendly amendment. So  
13 you're still prepared -- are we prepared to vote?

14 Everybody understand what we're voting on?

15 Mike?

16 MR. LACY: I do not.

17 MR. CARTER: Okay.

18 MR. LACY: A bare surface with sawdust is not a  
19 bare surface? Is that correct? Is that the intent?

20 MR. CARTER: That's correct.

21 MR. RIDDLE: It's no longer bare.

22 MR. CARTER: It's no longer bare.

23 MR. LACY: Thank you.

24 MR. CARTER: All right. We will proceed to

1 vote. All of those in favor of the amendment, signify by  
2 raising your hand.

3 (A show of hands.)

4 MR. CARTER: Opposed, same sign.

5 (Mr. Lacy raised his hand.)

6 MR. CARTER: The motion carries with -- oh,  
7 abstentions?

8 (No response.)

9 MR. CARTER: Okay. The motion carries 12 to  
10 one to zero.

11 VOICE: Can you repeat the amendment?

12 MR. CARTER: Okay. Goldie, please repeat the  
13 amendment.

14 MS. CAUGHLAN: Well, at this point it would  
15 take position number 2 if you have --

16 MR. CARTER: With your microphone on.

17 MS. CAUGHLAN: And it would read, Bare  
18 surfaces -- I'm sorry. I've lost it.

19 MR. SIEMON: Bare surfaces other than soil do  
20 not meet the intent of this rule.

21 MS. CAUGHLAN: Right. Thank you. I'm glad  
22 somebody was awake.

23 MR. CARTER: Okay. Now, we are back to the  
24 original motion as amended.

1           Is there further discussion on the motion as  
2 amended, which is to adopt the access to outdoors for  
3 poultry provision.

4           (No response.)

5           MR. CARTER: All of those in favor of the  
6 motion as amended indicate by raising your hand.

7           (A show of hands.)

8           MR. CARTER: Opposed, same sign.

9           (Mr. Lacy raised his hand.)

10          MR. CARTER: Okay. Abstentions?

11          (No response.)

12          MR. CARTER: Okay. It carries 12 to one to  
13 zero.

14          Thank you, George.

15          MR. SIEMON: Then I think the dairy replacement  
16 we should just put forward from the committee and not take  
17 the NOSB at this time.

18          MR. CARTER: Okay. So we will move forward  
19 language on dairy herd replacement to be posted on the web  
20 for comment and action at the September meeting.

21          MR. SIEMON: And just before we go on that,  
22 Rick, maybe we should sit down and talk and see if you  
23 want to write a comprehensive one or just this  
24 replacement; you know, what we want to do to clarify it.

1 So something we can do in private or maybe on a phone  
2 conference.

3 MR. MATHEWS: Yes. I think that you and I --  
4 and we'll pull Bob Pooler into it -- really need to start  
5 to communicating on this. And we'll also pull Arthur into  
6 it.

7 I see Arthur's hand up.

8 MR. NEAL: We've got a question for the record  
9 on the last vote.

10 MR. CARTER: Yes.

11 MR. NEAL: Was this intended for mandatory  
12 language [inaudible], or is this for guidance [inaudible]?

13 MR. MATHEWS: It's just guidance, Arthur.

14 MR. NEAL: Okay.

15 MR. CARTER: All right. Then we will -- okay.

16 I was promised that, if Marty Mesh came forward and gave  
17 his response to the questions that he was asked to clarify  
18 on Monday, that he would not take long; that being -- the  
19 issue was raised about the prohibition of wording  
20 regarding "certified organic" on a label.

21 MR. MESH: Our homework assignment: Why is  
22 there a need to say "certified" on a label when everything  
23 is certified?

24 Not everyone is certified who can use the term

1 "organic." Less than 5000 --

2 MR. RIDDLE: Slow down. We're not in a hurry.

3 Just let us listen.

4 MR. MESH: For a change.

5 (General laughter.)

6 MR. MESH: Sorry. Off the record.

7 (General laughter.)

8 MR. MESH: The question that Rick posed: Why  
9 is there a need to say "certified" on a label when  
10 everything is certified. And with the help of Consumers  
11 Union representing millions of consumers, not everyone is  
12 certified who can use the term organic, especially less  
13 than \$5000 retail preparation: organic lasagne versus  
14 certified organic lasagne.

15 Consumers don't know the difference between  
16 certified and not certified unless it's on the label.  
17 There is some confusion in the marketplace with other  
18 labels that certify some users but not other users of the  
19 term; i.e., dolphin-safe.

20 Conventional agriculture uses obvious label  
21 claims: No hormones administered in poultry would be an  
22 example, when federal clearly prohibits the use of  
23 hormones in poultry.

24 In Section 205.310(a)(2), the rule states that

1 product from an exempt or excluded operation must not "be  
2 represented as a certified organic product or a certified  
3 organic ingredient to any buyer."

4 This implies that a product from a nonexempt  
5 operation could be represented as certified organic.

6 In 205.303(b)(2), the use of the phrase  
7 "certified organic by" is mandated. If the same words are  
8 both mandated and prohibited on the same label, then there  
9 seems to be some confusion.

10 And then the last one: Under OFPA, the word  
11 "organic" is regulated; the word "certified," like the  
12 word "transitional," is outside the scope of the National  
13 Organic Program if it is used in a truthful labeling  
14 claim.

15 Your second question that you posed -- are  
16 there any questions about the first one?

17 (No response.)

18 MR. MESH: The second one: What is the  
19 potential economic impact on those who don't use  
20 "certified" because they don't have room on the label?

21 That one was a tricky one. The loss -- and you  
22 all have economic researchers to do this type of data, but  
23 the loss of current market recognition of the phrase  
24 "certified organic" could cause economic impact on many

1 operations currently certified. The changing of labels  
2 alone could be prohibitively expensive.

3 And our rhetorical question: What is the  
4 potential negative economic impact for those who are  
5 certified versus those who aren't but still can use the  
6 term "organic"?

7 MR. MATHEWS: Thank you very much, Marty,  
8 because -- and I'm serious on this -- because what Marty  
9 has done is more fully explain his question, his ideas on  
10 the question, and it will make our job a lot easier when  
11 we go to answer his question.

12 Many times the problem with answering questions  
13 is that we really don't know what the person asking the  
14 question is really thinking. Sometimes the questions that  
15 come in and the answers we give are not complete.

16 So this helps us better understand what the  
17 issue is for Marty, which means that we can do a better  
18 job of giving an answer. We have found that sometimes  
19 people aren't totally up front with what their real  
20 objective is with their question, whether that's knowingly  
21 or unknowingly, and then we end up giving out answers that  
22 turn out to be maybe not the best answer we could have  
23 given.

24 So kind of take this as a lesson that the more

1 you can give us, the better.

2 Thank you, Marty.

3 MR. CARTER: Okay, Kim?

4 MS. BURTON: I just want to support Marty in  
5 this. I think that it is important that if producers want  
6 to put "certified" on their label that they be able to do  
7 that.

8 MR. MESH: And we were going to put it on the  
9 Frequently Asked Questions.

10 MS. CAUGHLAN: I can tell you that it's what  
11 we've been telling consumers for a long time: "certified  
12 organic." We've been hammering that at consumers in  
13 writing, in talking. Certification is what it's about.  
14 And to then not be able to go back to those consumers and  
15 tell them that they can indeed expect to see certified  
16 organic as distinct from sorta organic, which has been out  
17 there, in some respects, for a long time, would be a  
18 disservice to consumers, an extreme disservice.

19 MR. MATHEWS: The only issue -- and I don't  
20 have an answer for you right this moment, but the initial  
21 reaction was that every product produced on a certified  
22 operation already had to carry the identification of the  
23 certifying agent.

24 So the information was available or is

1 available to all consumers, and only certified operations  
2 can carry that information, and only certified operations  
3 that are producing organic products could carry the USDA  
4 seal.

5 MS. CAUGHLAN: Point: follow-up.

6 MR. CARTER: Very quick point; then we're going  
7 to move on.

8 MS. CAUGHLAN: All right. At retail we now  
9 will be able to sell the small less-than-5000-gross  
10 producers' goods, and we hope to do that, as many  
11 retailers do, in terms of encouraging the bringing along  
12 of the small producers.

13 However, those will not be listed as certified  
14 organic, but rather they'll be in our produce sections or  
15 whatever labeled "organic." And it would be disingenuous  
16 not to have the other product certified organic if that is  
17 chosen to be listed that way.

18 MR. MATHEWS: We understood the question more  
19 to be packaged goods, not the individual items in the  
20 retail section. So that in itself gives us an idea how  
21 information provided by Marty can be more valuable.

22 MS. CAUGHLAN: Right. But an additional factor  
23 is what I'm pointing out.

24 MR. CARTER: Mark?

1           MR. KING: Just a quick point. I think it's  
2 obvious to everyone in this room we understand that if you  
3 are indeed using the term "organic" that you're certified,  
4 but that many consumers will not clearly understand that,  
5 and they do look to that term as an added sort of  
6 clarification that indeed this operation maybe has been  
7 inspected, certified, obviously, so on.

8           So I do think it's important.

9           MS. CAUGHLAN: But, Mark, remember; you go to  
10 the farmer's market and there's organic product there that  
11 is not certified organic product.

12           MR. CARTER: Less than 5000. Okay. Let's move  
13 on.

14           MR. LOCKERETZ: What's the current status of  
15 the phrase -- Rick, this is for you: What is the current  
16 status of the phrase "certified organic" as of October 21?  
17 Is that phrase not allowed? Is it --

18           MR. MATHEWS: That's the one we're going to  
19 answer, Willie. That's the one we're going to answer.

20           MR. LOCKERETZ: Sorry. I didn't hear the  
21 answer.

22           MR. MATHEWS: That's the question that Marty  
23 has asked us to answer.

24           MR. CARTER: They will be answering that,

1 Willie. Marty has given them some guidance as to how it  
2 should be answered. Okay?

3 And, Marty, if you'd please turn off your cell  
4 phone.

5 MR. MESH: I don't know how.

6 (General laughter.)

7 MR. RIDDLE: And we accredited him.

8 (General laughter.)

9 MR. CARTER: We will now move into committee  
10 reports of their work plans.

11 And so George will start off with livestock.

12 MR. SIEMON: Okay. Well, we -- first we were  
13 dealing with this replacement clause, as we've just said  
14 here today, and we hope to get that posted on the web as  
15 soon as possible and have a final vote by September on  
16 that.

17 Nancy just left, and she is going to take on  
18 the job of developing some sort of a checklist for poultry  
19 inspections on these issues, some suggestions. So whether  
20 that's in this committee or outside, she -- it's suddenly  
21 related to what we just did now.

22 One of the bigger issues we want to deal with  
23 is about excipients in medication, which is just a lot  
24 like incipients in feed additives or inerts in pesticides

1 and that kind of thing; it's an issue that we really have  
2 to address, and I hoped to get it before this meeting.

3 I do have an early draft I've handed out, I  
4 think, to all the Livestock Committee. If not -- if  
5 anybody else -- I've got plenty of copies here -- would  
6 like to see about excipients.

7 And then the big task, of course, is materials.

8 The Livestock Committee has taken some -- I guess the  
9 first time this ever happened, Kim; I don't know, but we  
10 were given the privilege to put forth priority livestock  
11 materials that we thought needed to be dealt with before  
12 October 21, so we've put forth a list -- initially 14 and  
13 now it's 17.

14 And, Kim, I guess we were supposed to get  
15 together and talk about the prioritization of that, but  
16 it's a big task, and what we did was then just do a single  
17 page backup behind the petition for each one of these.

18 So we've gone through and done a lot of work to  
19 get what the materials are we're concerned about and just  
20 a single page, because we just weren't getting the  
21 petitions in for materials that we felt had to be dealt  
22 with.

23 So that's a big job yet in the TAP, and  
24 hopefully by September meeting. So those are the big four

1 we're dealing with right now -- or these three.

2 MR. CARTER: Okay. Kim?

3 MS. BURTON: Just a comment on the 17  
4 materials. Those have been prioritized, and I worked with  
5 Jim Pierce and Kelly Shea. There was actually some  
6 industry surveys that went out, and they had them  
7 prioritize them, number them one, two, three, four, five,  
8 so those have been submitted to the contractors, and they  
9 are starting to work on those, and in that order, so that  
10 we make sure that we have those TAPs provided by  
11 September.

12 MR. CARTER: Okay. Questions on -- extra stuff  
13 you want to add to that?

14 (No response.)

15 MR. CARTER: Okay. Then, Kim, while you have  
16 the floor, let's talk about materials.

17 MS. BURTON: And then, George, just -- my only  
18 other comment: We passed a recommendation yesterday on  
19 perhaps limiting some materials according to the CAR  
20 AAFCO, and if we could just make sure we follow up with  
21 those in the comment, make sure those are posted, and if  
22 we need to get TAPs done, we get that moving along, too.

23 MR. SIEMON: I didn't catch that. I'm sorry.

24 MS. BURTON: We'll talk off line.

1           Okay. Materials: The list is short and sweet,  
2 although it is a lot of work. Managing the material  
3 review process will be our primary focus from now and  
4 ongoing.

5           We do have the largest quantity -- we've got 31  
6 so far right now -- scheduled for September, and I would  
7 imagine there will be a few more trickling in here, so  
8 managing that.

9           We also, as a committee, would like to present  
10 for the September meeting a draft document identifying  
11 ways to improve the communications when a petition is  
12 submitted for removal of a material from the National  
13 List.

14           So we're actually going to come up with some  
15 recommendations, not only from the board, but also  
16 hopefully help in the industry so we can get the word out  
17 that a material is being considered for removal.

18           Third, a draft recommendation will be presented  
19 in September for a proposal to review materials currently  
20 on the National List. In October, when we have that final  
21 date, we've got five years to review all the materials  
22 that are on the National List, so our tasks are never-  
23 ending here.

24           So we will come up with a proposal how to

1 prioritize those materials, and get that moving along.

2 MR. CARTER: Okay. Questions or comments for  
3 Kim?

4 (No response.)

5 MR. CARTER: Okay. Let's go on with the  
6 Processing Committee.

7 MR. KING: Yes. We have, as every other  
8 committee here does, several materials to review for the  
9 next meeting, and then a couple other things.

10 One, we're going to make continued development  
11 of the document technologies in which the NOSB would  
12 actually review a lot of work that's been done on this  
13 document by Steve Harper. Historically we've had some  
14 good comments from individuals as well as organizations  
15 like OMRI, so we'll continue development of that document  
16 between now and September, and hope to put a  
17 recommendation forward at that time.

18 Secondly, the Processing Committee will be  
19 forwarding cultures for a petition, so we'll be looking at  
20 those, and so that will comprise a lot of our work as  
21 well, and that's it.

22 MR. CARTER: Okay. Thank you.

23 Questions, comments for Mark?

24 (No response.)

1 MR. CARTER: Owusu? Crops Committee.

2 MR. BANDELE: Yes. The Composting Practicing  
3 Standard will be one of our projects in the upcoming  
4 months. I think Eric mentioned that yesterday. The  
5 Compost Task Force recommendations were accepted and  
6 endorsed by the board yesterday, as you know, and from  
7 that point the document will be a little more specific in  
8 terms of actual practices.

9 Guidance on the hydroponics, recognizing now  
10 that it's already covered -- we will be coming forth with  
11 a refined document in that area.

12 Based on yesterday's discussion, we will have  
13 also a guidance document on planting stock, because  
14 there's still a lot of confusion among farmers,  
15 particularly those using the vegetatively propagated  
16 planting materials, so we'll try to clarify that through a  
17 document; and then, of course, the materials review.

18 Two questions: In the past Mark Keating had  
19 recommended the committee coming forth with a list of  
20 materials that are allowable, as opposed to the National  
21 List, which is materials that are not allowable.

22 But my question would be, in light of OMRI's  
23 list, is that something that we really need to continue to  
24 pursue? I guess I'll direct that to Rick.

1           And then, secondly, a lot of our work in the  
2 past historically has come from recommendations from NOP  
3 based on feedback that they have gotten from the farming  
4 community, such as the greenhouse questions, the planting  
5 stock, et cetera.

6           So I'm assuming that Bob Pooler will act in  
7 that regard now and feed us, and so some of our working  
8 plan is really an ongoing type of operation, based on the  
9 farmers' needs.

10           MR. CARTER: Okay. Rick?

11           MR. MATHEWS: Yes. I continue to see this as a  
12 partnership where we will identify issues that we think  
13 that the board should be addressing, based on the feedback  
14 that we're getting, just as we would expect this board to  
15 continue to surface issues amongst themselves as well as  
16 bringing to the Department, because of the feedback that  
17 they are also receiving. So that will continue.

18           MR. BANDELE: What about that list question?  
19 Do you see a need for that?

20           MR. MATHEWS: I don't know what that list  
21 question really involves. That didn't get surfaced to me  
22 before it went to you.

23           MR. CARTER: George?

24           MR. SIEMON: Well, I just wanted to make the

1 comment there is a little bit of a gap. When we've  
2 determined something is natural, it's not necessarily in  
3 the record that we've gone through that process, for  
4 people to know about this material. There's a bit of a  
5 hole there -- and that's the allowed list -- that people  
6 need to know, because once you decide it's only natural,  
7 it never shows up on the list.

8 MR. MATHEWS: I can tell you that we are  
9 working to develop a series of lists; that's something  
10 that Bob has been working on. And we haven't decided  
11 which kinds of list will necessarily go up, but we are  
12 looking at everything the board has previously ruled on  
13 and creating a document that shows all the positions that  
14 have been taken.

15 For example, what doesn't show up in the  
16 Federal Register document is all of the synthetics the  
17 board has already ruled on. We will definitely have a  
18 list of all of those things that you've already ruled on  
19 on our web, so that people can see, yes, this has already  
20 been petitioned, and the board has already said no, so now  
21 I don't have to worry about it.

22 As it stands right now, I guess about the only  
23 place they might find that is through the document that  
24 Emily developed, or maybe it was Zea.

1 MR. RIDDLE: Yes. We'll get to that.

2 MR. CARTER: Okay. All right. Other --

3 Yes, Willie?

4 MR. LOCKERETZ: Question for both of you: Is  
5 there any way of separating the question synthetic or  
6 nonsynthetic from the question should approve or should  
7 not approve, because if you simplify the process of just  
8 answering the first question, then a lot of substances are  
9 taken care of, but producers won't know that unless it's  
10 been made explicit: We considered the synthetic versus  
11 nonsynthetic, and we decided it was nonsynthetic.

12 MR. MATHEWS: Yes. We're going to be  
13 addressing all the materials that you have addressed. The  
14 disadvantage that the people out in the public have is  
15 that they can go to a document that says, These are what  
16 have been approved. What they don't really have is a  
17 separate document up on our web that says, These are the  
18 things that were not approved.

19 But I do know that work has already been done  
20 on that, and we're just going to formalize it and get it  
21 up on the web.

22 MR. CARTER: Okay.

23 MS. BURTON: I think what Willie was asking was  
24 a separate question. What he was asking was --

1 especially, I mean, just like related to 205.606, there's  
2 materials that we are going to deem nonorganic  
3 agricultural items that are nonsynthetic, and will there  
4 be a list available to the public so that they know  
5 something has already been reviewed.

6 And we are hoping to -- there will be list;  
7 we're just not sure right now who's going to be working on  
8 that list. We're hoping OMRI will take advantage of that.

9 They're also -- as the board will review a material,  
10 there will be something on the website. So there will be  
11 lists; we're just really not quite sure where it's going  
12 to be right now.

13 MR. CARTER: Okay. Anything else for Owusu?

14 (No response.)

15 MR. CARTER: Thank you, Owusu.

16 Willie, International.

17 MR. LOCKERETZ: Well, the first thing we know  
18 we're doing is to continue to develop and elaborate that  
19 document, which we distributed a very preliminary form the  
20 other day, and we'll do that elaboration mainly, I hope,  
21 with comments that all of you, as well as the public, give  
22 to us by way of how they see various questions we raise in  
23 that document, so -- because that's as far as we could go  
24 up to this point, but we're hoping for good response to

1 that document, and then we'll put out a more elaborated  
2 version.

3 Another thing we're talking about doing is also  
4 kind of informal, nonbinding. By way of background, the  
5 Accreditation Committee has from time to time surveyed  
6 certifying organizations about how the accreditation  
7 process was going and what difficulties they were having  
8 and so forth.

9 And first me and then later on Jim, who became  
10 chair of the Accreditation, after I moved over to  
11 International, has reported to the board about what the  
12 issues are, what the problems are, and so forth.

13 So we're going to start doing a similar thing  
14 in the international domain, informally surveying the  
15 players in international organic trades, such as IFO, such  
16 as OTA, such as foreign certifiers that have been  
17 accredited by USDA already, and so forth, and get a kind  
18 of picture of how they see the situation regarding  
19 international trade in organics and, again, informally  
20 report back, not as an action item, but to enlighten the  
21 board and the NOP about the sorts of things we've been  
22 hearing.

23 Beyond that, we have no specific plans,  
24 although we -- I talked to Keith the other day, and we

1 agreed that another one of our conference calls with the  
2 International Committee and Keith would be valuable to  
3 help us figure out what we should be doing, because with  
4 International the needs are not so clear as they are with  
5 Crops and Livestock and Processes, where they're already  
6 in business, knowing that they have to do more of what  
7 they've been doing all along; we're a new operation, and  
8 so our task is not so clearly defined, but I hope that  
9 will change in the very short future.

10 So we'll talk to you, Keith, about scheduling  
11 another conference call the way we had a couple of weeks  
12 ago.

13 MR. CARTER: Okay. Discussion, questions for  
14 International?

15 (No response.)

16 MR. CARTER: Okay. Before I call on Jim, when  
17 we move into the public comment period, you do need to  
18 sign up to be on the list to give any public comment, so  
19 those of you that do want to give some public comments,  
20 please go over and sign in on the list here.

21 Okay. Let's move on, then, to Accreditation.

22 MR. RIDDLE: Yes. Thanks. The first item on  
23 our work plan will probably make the NOP very happy, and  
24 that is to take a little break --

1 (General laughter.)

2 MR. MATHEWS: Thank you, Mr. Riddle.

3 MR. RIDDLE: -- in recognition just of the  
4 incredible amount of work that's gone into the  
5 Accreditation and this meeting and then the follow-through  
6 from this meeting, too.

7 But then when we really get down to being  
8 engaged, the big item for the Accreditation Committee in  
9 the short term is to act as the interim peer review panel  
10 and review the NOP's accreditation program and begin by  
11 screening all the documents that have been used in that.

12 So we certainly will have something to report  
13 on that in September.

14 We also have the grower group certification  
15 criteria that we've submitted. At this meeting it will be  
16 posted for public comment, so we'll be receiving and  
17 reviewing those comments and then making redrafts to that  
18 as needed.

19 Also as needed we stand available to assist the  
20 NOP in the development, refinement of the enforcement  
21 plans and procedures, and especially as that relates to  
22 the states and state organic programs.

23 And item that we brought up and was mentioned  
24 by several certifiers is the need to merge the ISO-65 and

1 NOP accreditation requirements, and the Accreditation  
2 Committee will be addressing that. I don't know; we may  
3 have some first draft to present in September, but that's  
4 certainly on our work plan to look into that.

5 We will be assisting the NOP in the complaint  
6 procedures as they relate to accredited certifiers to  
7 follow through with the notice being posted on the website  
8 as needed.

9 And we'll continue to monitor certifier issues,  
10 just like was mentioned for crop issues, as various issues  
11 come up, especially from accredited but also applicant  
12 certifiers, and in particular a couple of those that we  
13 heard quite a bit about, 120 days of sufficient time to  
14 make organizational changes, and also the examples of  
15 workable organizational structures.

16 And the last item is to continue to monitor the  
17 NOP and now also the NOSB page of the website and provide  
18 feedback to the program.

19 MR. CARTER: Rick.

20 MR. MATHEWS: Define break.

21 (General laughter.)

22 MR. MATHEWS: I just want everybody to know  
23 that I've already cut the travel papers for Jim to come to  
24 Washington to work in the NOP for a 30-day period as

1 acting program manager while I go to Maine.

2 MR. CARTER: All right. Other comments or  
3 questions.

4 All right. Willie?

5 MR. LOCKERETZ: Could you give us some sense as  
6 to your guess as to the time scale under which these  
7 various things will be happening?

8 MR. RIDDLE: Well, I tried to as I want along,  
9 but if you want me to go back, the interim peer review,  
10 that will be happening -- that's going to kick in in the  
11 next couple of weeks after this break. That's item number  
12 1, and that will be -- we will have something to report in  
13 September.

14 A number of these are just ongoing. We'll also  
15 have something to report on the grower group criteria in  
16 September.

17 MR. CARTER: Just one thing: A lot of the  
18 committee reports we've talked about September. Let's  
19 keep in mind that we're also planning on an October  
20 meeting in which a lot of this will be done, because  
21 September, other than the item that was specifically, by  
22 board action yesterday, directed to be addressed in  
23 September, we're going to have our hands full of materials  
24 issues, although I would encourage all of the committees

1 coming into September to at least have some written  
2 reports for distribution, and then we will have some time  
3 for discussion on that in October.

4 MR. RIDDLE: I just had a question. It wasn't  
5 clear to me -- I want to make sure that each of the  
6 committee chairs submit their work plans in writing and  
7 that those will be posted, similar to coming out of last  
8 October's meeting, so that the public who didn't take  
9 notes real quick will know what each of the committees is  
10 working on.

11 MR. CARTER: Okay. Any other discussion for  
12 Accreditation?

13 Okay. We got another issue?

14 MR. RIDDLE: Yes. The board policy task force  
15 also has a work plan, and that is to send the adopted  
16 board policy manual, as we amended it, into the program,  
17 and then to make corrections, circulate to the task force,  
18 and we'll make a report in September, but also that would  
19 be more appropriate as then an action item to vote on any  
20 proposed changes at the October meeting.

21 MR. CARTER: Okay. Then if there's no other  
22 discussion on committee actions, number one, I just want  
23 to compliment the committee chairs. I think that you got  
24 a lot of stuff on the plate here, so we appreciate and

1 reiterate what Jim said: If you can get him your written  
2 work plans, so we can get that on the --

3 MR. RIDDLE: Not me.

4 MR. CARTER: Get the work plans -- sorry about  
5 that; I'm just giving you more work. Get the work plans  
6 in so that they can get on the web.

7 Let's now take a short break. We will try and  
8 be back here by 9:30.

9 MR. RIDDLE: Could I make a couple of  
10 announcements before the break quickly, or you want to  
11 make them after?

12 MR. CARTER: Go ahead and make them now, and  
13 then we will take a 15-minute break.

14 MR. RIDDLE: Yes. Just while everybody's still  
15 here, I wanted to let people know -- it's not been  
16 clear -- that Zea Sonnabend has been working on updating  
17 the green book, so essentially the NOSB recommendations,  
18 and she'll be making a progress report at our next meeting  
19 and have something to present.

20 I don't think it's quite done yet, but some  
21 people haven't known, I think, that those are all being  
22 consolidated. The green book wasn't available  
23 electronically; this is all going to be electronic file,  
24 and so we can clearly reference what all the past NOSB

1 recommendations have been, so I just wanted to announce  
2 that.

3           And then I also wanted to announce -- there's a  
4 couple of times I've mentioned just in passing about the  
5 NRCS having a transitional support payment in Minnesota,  
6 and this is follow-through from the memorandum of  
7 understanding at the national level between NRCS and the  
8 Organic Trade Association.

9           And in the very brief sign-up period that  
10 wasn't well publicized, it still netted 145 applicants  
11 that each could be bringing 250 acres and receiving a  
12 payment of \$50 per acre for cropland and \$25 per acre for  
13 pasture land to convert it, so they'd receive that payment  
14 for three years, and they'd have to complete an organic  
15 plan and be inspected by an accredited certifier in order  
16 to qualify for that payment.

17           And there will be a presentation I'll be making  
18 about the conservation benefits of organic practices on  
19 Friday morning at 10:15, as part of the OTA show, but also  
20 the state conservationist, the head of NRCS for the state  
21 of Texas, will be on there as well.

22           So if you're interested in kind of this  
23 interplay between organics and the NRCS, I just wanted  
24 people to know that there's some positive things happening

1 there.

2 Thanks.

3 MR. CARTER: Okay. Then let's take a 15-minute  
4 break. According to my watch it's 25 after, so we will  
5 come back at 20 till.

6 (Whereupon, a recess was taken.)

7 MR. CARTER: Okay. Jim again will serve as the  
8 official timekeeper. Please prepare your comments for  
9 five minutes. When we gavel, you'll be able to continue  
10 whatever sentence you're on, but if you continue on ad  
11 infinitum without putting a period into a long sentence, I  
12 will call you on it.

13 MR. LOCKERETZ: David, how many commenters do  
14 we have?

15 MR. CARTER: We have got about 20 signed up.  
16 And the chairman's prerogative is the first person I would  
17 like to call on is our former chair, Carolyn Brickey.

18 MS. BRICKEY: I love compliments, as you know.  
19 I want to tell you, first of all, that we've been  
20 enormously entertained in the audience by all our chicken  
21 analogies, and if you want to hear some of them, you can  
22 talk to people in the audience after the meeting.

23 I want to raise a serious topic first, Mr.  
24 Chairman, which is one of our former members is very ill,

1 Betsy Lyden [phonetic], who some of you know, and I would  
2 suggest it would be very nice for the board to pass a  
3 resolution wishing her well and commending her for all her  
4 public service and sending that off to her.

5 I can get information for you about her  
6 address, but I think NOP has it also.

7 MR. CARTER: Okay.

8 MS. BRICKEY: Well, just a few words of advice  
9 this morning, which I'm sure you're dying to get: First  
10 of all, I think -- the one thing I would really stress  
11 with you folks is to find the issues that unite you and  
12 work on those issues.

13 Why? Because that's where you're going to find  
14 your strength; that's where you're going to have the  
15 greatest impact; that's where you're going to do your best  
16 work.

17 So if you work and work and work on a document  
18 that is voted, you know, nine to six, even though the  
19 board vote carries and the document becomes the board  
20 position, that's not going to be as strong for you as a  
21 document you all work on and have ownership and feel  
22 strongly about together.

23 So look across the room for those ideas that  
24 bring you together and try to work on those ideas the

1 most.

2           And I'll go back to some comments that some of  
3 you have made recently about whether you're relevant. You  
4 know, Bill Clinton went through a phase about wondering  
5 whether he was relevant or not. And Bill Clinton is still  
6 relevant, I think we would all argue, at some level.

7           So pick those issues that matter the most to  
8 you and also to the National Organic Program. Be true to  
9 those things that you can deliver.

10           Your number-one priority is to give your best  
11 advice, and your way of doing that is work together as  
12 strongly as you can on issues that matter the most and try  
13 to deliver on those issues.

14           You got to be practical; you know, you can work  
15 and work and work on something, but if it doesn't work or  
16 it's never going to be implemented, where are you?

17           I think in a number of these issues -- and I  
18 would say that the pasture issue falls into this same  
19 category -- the most important thing is what happens on  
20 the ground and whether it's enforceable and verifiable,  
21 and that's where I would put my focus and my emphasis.

22           You know, can you verify it? How are you going  
23 to do it, and can you get it enforced? Those are the  
24 issues that matter the most. And I hope that the board

1 will be able to move more into that issue as you move  
2 along.

3 I want to disagree with some of the unhappiness  
4 that the board has felt about our seafood task force that  
5 we completed I guess about six months ago. Although it  
6 seems like now the position that the Department takes may  
7 be somewhat different than we would have wished or that we  
8 voted for in our document, I still think there's very good  
9 content in that document about the criteria that make a  
10 system organic, and I think that all the cards in that  
11 deck have not been played yet, and I think that's going to  
12 become important.

13 And I think that was good work; it was  
14 deliberative work, and that's the kind of work that I urge  
15 you to undertake on this board.

16 Don't be precipitous; be patient. I think  
17 Barbara gave a very excellent description of how things  
18 work at USDA; you know, it's a very slow-moving,  
19 thoughtful, considerate -- some people feel too  
20 cautious -- place. But they're not going to act  
21 precipitously for the most part, and it's not going to  
22 benefit you to act precipitously.

23 You know, when I was on the board, I always  
24 used to say, Let's not sit here and wordsmith this,

1 because we're probably not going to get it right. So I  
2 would urge you to avoid that as often and as much as  
3 possible.

4 And I want to comment for a minute about  
5 materials, Kim. This project that you're going to start  
6 with looking at previously approved materials -- I'm going  
7 to throw a new acronym out for you: PAM.

8 EPA has an enormous amount of parallels that  
9 you can draw from in their experience in approving  
10 pesticide products. Of course, there are differences, but  
11 a major difference is our lack of experiences and  
12 resources with this whole idea of re-reviewing materials,  
13 and I think you can learn a lot and benefit from the  
14 experience they've had in doing that.

15 And I think the most important thing is not to  
16 duplicate work that was done but to really look toward  
17 figuring out what you could do that hasn't been looked at,  
18 where you don't have data, et cetera, et cetera.

19 And I think they could give you some good  
20 advice about that, and I'd be happy to put you in touch  
21 with people that can be helpful.

22 I think that the most important thing in the  
23 materials process, besides efficiency, is going to be  
24 consistency. If you can't feel that you're using the same

1 criteria to evaluate a material you looked at yesterday  
2 and you're going to use that same criteria in September,  
3 then you've got a problem.

4 And it sort of rebounds, in that you get in  
5 kind of a circle of saying, okay, they're alternatives,  
6 but they're alternatives because we reviewed that material  
7 first, and it becomes an alternative, and now we're  
8 reviewing another material.

9 You've got to try to use the same criteria, and  
10 that's going to be more and more important as the  
11 involvement of the petitioners increases. And, believe it  
12 or not, it will increase, especially after October. So I  
13 just throw that out as an important thing to remember.

14 And I just want to thank all of you for all  
15 your hard work. I know sometimes you feel like you're  
16 operating in a vacuum. Sometimes you wish you were  
17 operating in a vacuum, but you're not.

18 So I want to thank all of you and welcome the  
19 new members and offer to be helpful in any way that I can.

20 MR. CARTER: Thank you, Carolyn.

21 The suggestion was made that this board pass a  
22 resolution of best wishes to Betsy Lyden, and the chair  
23 would certainly entertain that at this time.

24 MR. SIEMON: I make that motion.

1 MR. LOCKERETZ: Second.

2 MR. CARTER: Okay. It's been moved and  
3 seconded.

4 Discussion?

5 All in favor say aye.

6 (A chorus of ayes.)

7 MR. CARTER: Opposed, same sign.

8 (No response.)

9 MR. CARTER: And I will work with Katherine to  
10 develop an appropriate letter from the board.

11 Thank you, Carolyn.

12 Now, our next commenter is Randy Duranceau.

13 MR. DURANCEAU: I want to thank the board for  
14 the last two days. This has been very enlightening for  
15 me. This is the third meeting I've been to, and I'm  
16 starting to figure this out now, and it's been very, very  
17 good. And I appreciate all your hard work and all the  
18 information you all have to digest.

19 And for us here it's pretty -- we're pretty  
20 specific in what our wants and desires are, and you all  
21 have to understand everything.

22 A couple of things I want to talk about, and I  
23 hate to beat the dead horse into the ground, but on this  
24 poultry access issue, as well as some of the other

1 comments we've heard about using conventional grains to  
2 raise organic broilers -- and I'm going to focus mainly on  
3 the broiler issue. That's what we do, and that's what I  
4 want you to understand I'm talking about.

5 As far as we're concerned --

6 MR. LOCKERETZ: Would you state your  
7 affiliation.

8 MR. DURANCEAU: I'm sorry. I'm Randy Duranceau  
9 with Petaluma Poultry out of Petaluma, California. We've  
10 been raising free-range chickens for over 15 years, and  
11 organic since 1999.

12 To me, both issues, whether it's outside access  
13 or asking you to make an exception to feed conventional  
14 grains for organic birds, are both economic issues.

15 Organic grains are expensive. Basically  
16 they're three to four times the cost of conventional  
17 grains. Outside access is a real issue of control of the  
18 conditions for the birds inside their housing.

19 Feeding conversions are extremely important in  
20 the broiler business. Once those conditions in the houses  
21 are broken and heat changes, sunlight changes, so forth  
22 and so on, conversions can get out of whack, and that  
23 costs that grower lots of money.

24 And so as you progress down and other people

1 get into the business that have not been used to raising  
2 free-range birds or organic, conversions are extremely  
3 important to them.

4 And when those conditions change, the cost of  
5 that raising that bird changes. As I stated the other  
6 day, over 50 percent and close to 70 percent of cost of  
7 raising that bird is feed cost. And so, again, it's  
8 extremely important to watch those.

9 And so to me, that is why, as we go down this  
10 road, as more people get involved in the business, outside  
11 access becomes a real issue.

12 And I agree with Carolyn, enforceability and  
13 verification is extremely important. That's the concern I  
14 have in the rule that you all approved here, the  
15 recommendation, was that a lot of this is not enforceable  
16 or verifiable.

17 Words like "when feasible," "temporary  
18 confinement" -- those are all issues that we as a  
19 legitimate organic grower of broilers have. And just a  
20 concern.

21 And so I just urge you again -- you know, I  
22 urge you to think about what we're doing here and think  
23 about verification and enforceability here and what we're  
24 doing for these birds.

1           I encourage any of you to come out and visit  
2 our operations, if that's appropriate. One of the  
3 concerns I have also is that the recommendation was a  
4 little bit quick yesterday, and I had this gut feeling  
5 that there were some things -- some statements made and  
6 some issues brought up that were incorrect.

7           And, again, I encourage the board, if you need  
8 information from any of the growers out here, whether it's  
9 conventional growers, organic growers, free-range growers  
10 of broiler or layers, you know, access us; we're more than  
11 willing to help talk and educate you on really what's  
12 going on out there.

13           So I don't know if there's any questions that  
14 you have for me at this point?

15           MR. CARTER: Okay. Willie?

16           MR. LOCKERETZ: A question: As you know, the  
17 motion we just passed requires that there exist an outdoor  
18 space for the birds to go out in if they choose. So you  
19 can't have temporary -- "temporary" can't be forever;  
20 there has to be -- at least in theory they have to go out.

21           Now, my question to you is, if a suitable  
22 outside area exists and it's up to the birds or the grower  
23 to choose where the bird is to be, will they  
24 preferentially take -- will the producer encourage them to

1 go out, and will they preferentially go out?

2 So, in other words, I'm asking, how much of a  
3 difference does it make that we're specifying there must  
4 be a place?

5 MR. DURANCEAU: There must be a place outside?

6 MR. LOCKERETZ: Outside. Yes.

7 MR. DURANCEAU: In our operation, on average we  
8 have anywhere from 50 to 80 feet in between our houses,  
9 and they're anywhere from 200 to 300 feet long, so that  
10 means up to 16,000 to 24,000 square feet outside for those  
11 birds to go.

12 Those doors are open. I have my little example  
13 here with a picture that shows exactly what those houses  
14 typically look like. And so those birds will go outside.

15 I mean, if it's raining and cold and windy,  
16 they'll stay inside, but on beautiful sunny days, in the  
17 morning, they'll go outside; they'll go outside all  
18 afternoon, and they'll come in and out at will. And  
19 that's really how we, as raisers of organic and free-range  
20 poultry, view this. These birds must be able to have the  
21 choice to go in and out at will.

22 And our outside access is basically dirt,  
23 natural grasses, and gravel around the houses.

24 MR. CARTER: Okay. Kim?

1 MS. BURTON: Just so that -- just the  
2 statement, I suppose, is that all of the documents that we  
3 did approve here at the board will be posted on the  
4 website for public comment. So I would encourage  
5 everybody -- you know, if you did hear something or see  
6 something that you don't agree with, then please comment.

7 MR. DURANCEAU: Okay. Thank you.

8 MR. CARTER: Thank you very much for your time.  
9 Oh, I'm sorry. Goldie?

10 MS. CAUGHLAN: Could I just ask, as a point of  
11 information, when you decided to go from your regular  
12 operation, where I know you had a free-range program in  
13 existence for quite a while -- and I assume that the free-  
14 range birds had -- those who were properly feathered, at  
15 that age, at least, had the outdoor access. Was that any  
16 different than the type of outdoor access that you're  
17 giving Rosey [phonetic]?

18 MR. DURANCEAU: No. Exact same outside access.

19 MS. CAUGHLAN: And for further reference, did  
20 you try other systems of outdoor access before you came to  
21 this method? Did you try platforms or other --

22 MR. DURANCEAU: No. As far as I know -- and I  
23 was not with the company 15 years ago, but as far as I  
24 understand, this is how we've always raised our free-range

1 birds, and then obviously our certifier required outdoor  
2 access, and so we used the same outside access as we had  
3 been using for 15 years, but obviously we had to have  
4 those ranges and those homes -- houses certified organic.

5 MS. CAUGHLAN: Thank you.

6 MR. CARTER: Okay. Thank you very much.

7 Next up we Tina Ellor -- or Tina Ellor  
8 Phillips.

9 As you come forward, everybody, if you would,  
10 please, identify yourself for the record, who you  
11 represent. And if you have written statements that you  
12 want to present, please give a copy to the court reporter  
13 as well as Katherine.

14 Next in the queue is Harriett Behar.

15 MS. ELLOR: Hi. My name is Tina Ellor; I'm  
16 from Phillips Mushroom Farms, also with the Organic  
17 Working Committee of the American Mushroom Institute, and  
18 I just have a very short comment today.

19 First of all, I want to thank you for the  
20 opportunity to comment, and thanks for all the hard work  
21 that the board and the USDA have put into these standards,  
22 and in particular the mushroom standards.

23 And I'd like to particularly thank Richard and  
24 Mark Keating for all the work they put into learning about

1 how to grow mushrooms; more than they ever wanted to know.

2 But I really feel like they did consider that mushrooms  
3 are a really unique crop compared to a lot of other crops,  
4 and they put a lot of effort into learning how it was  
5 done.

6 A little background here: We're certified by  
7 Pennsylvania Certified Organic, and agriculture is still  
8 the number-one crop in Pennsylvania, and mushrooms are the  
9 number-one agricultural crop, followed by hay to supply  
10 the mushroom industry.

11 Ten percent of the mushroom growers in the US  
12 are certified organic, and in an industry that had sales  
13 of \$863 million for the year 2000-2001, sales of organic  
14 mushrooms totaled 8.5 million in the same time period.

15 So we're very interested in the mushroom  
16 standard and the process that we're going through to get a  
17 mushroom standard.

18 What I wanted to comment about today is that  
19 when you consider issues of composting, we would really  
20 like you to take into consideration that mushroom growers  
21 are composters.

22 We put 40 to 50 tons of raw materials --  
23 composted raw materials into a mushroom house, and those  
24 mushroom houses are turned over four to six times a year.

1           My concern is that the goal of mushroom  
2 composting is to make selective media to grow mushrooms,  
3 not necessarily as a soil amendment, so we're not really  
4 falling under specifically the definition of composting.

5           It also concerned us a little bit -- and I was  
6 relieved when I heard on Monday or that I learned on  
7 Monday that the compost task force recommendation is not a  
8 rule change, so we can certainly still grow mushrooms  
9 under the original composting standard, with the  
10 exceptions that are in the mushroom standard.

11           We were concerned that that was a moving  
12 target, so I want to ask that when you consider composting  
13 issues, you consider also mushroom growers, because we  
14 specifically refer to the composting standard.

15           The only other small consideration I have is in  
16 that recommendation it says that you shouldn't sort of be  
17 able to recognize what went into the compost by the time  
18 you apply it on the soil, and mushroom compost, even at  
19 the time it's applied to the soil, you can still recognize  
20 that it has hay and straw, and I think that's a small  
21 point and probably not all that important.

22           So just to finish up with two things: Don't  
23 forget about mushroom growers when you're thinking about  
24 compost, and also, if I can ask this question, where does

1 the mushroom standard stand? When will we have a final  
2 standard? And what can we do to help? We're here -- you  
3 know, Richard has all the contact information you'll ever  
4 need to learn all you ever want to know or don't want to  
5 know about growing mushrooms. So don't be afraid to ask  
6 us if you have questions.

7 Thank you very much.

8 MR. CARTER: Okay. Thank you, Tina.

9 Rick?

10 MR. MATHEWS: Yes. The -- go ahead and stay  
11 there, Tina.

12 The mushrooms are covered. We have a policy  
13 statement out that talks about the scope of the rule, and  
14 mushroom production is included there. Most all of what  
15 the board was stating would go into a mushroom practice  
16 standard is already included in the regulations.

17 I would note that one particular point of issue  
18 to you is the composting and the fact that you want to use  
19 a higher number.

20 We would consider that covered by the  
21 provisions under pest management. As I've learned, the  
22 reason for the higher number is to control the other kinds  
23 of fungi that are growing in the compost.

24 So you could comply by having a higher number

1 that is used for the purpose of controlling what, for your  
2 industry, is a pest. But otherwise, the things such as  
3 treated lumber are already in there.

4 MS. ELLOR: Right.

5 MR. MATHEWS: The provisions about not  
6 providing for separate areas, so that you don't get the  
7 commingling, those kinds of things are already provided.  
8 So I think if you read the regulations closely, under the  
9 Crop Production Standards, you will find that all of those  
10 issues have already been addressed.

11 The only issue that is not addressed in the  
12 case of mushrooms is the issue that the trees have to come  
13 forested area that has not had a pesticide in three years,  
14 and so that would not be a requirement for mushroom  
15 growers under the existing standards.

16 MS. ELLOR: Okay. Thank you very much.

17 MR. CARTER: Okay. Oh, I'm sorry.

18 Willie?

19 MR. LOCKERETZ: You were concerned about the  
20 compost standard, but it wasn't clear to me whether the  
21 compost standards apply to mushrooms at all. It's under a  
22 section about soil fertility and crop nutrient management,  
23 but you're saying that's not what it's used for in  
24 mushroom growing. Am I correct?

1 MS. ELLOR: Right. We make compost  
2 specifically to grow mushrooms, not as a soil amendment.

3 MR. LOCKERETZ: So what is your interpretation  
4 as to whether either the current or the newly to be  
5 developed compost standards apply to mushroom growers at  
6 all?

7 MR. MATHEWS: I'll have to take some more time  
8 to think about that one, but I would look at it in  
9 reference to what is already in the regulations with  
10 regard to compost and to what's been proposed through the  
11 task force with regard to compost or soil amendments.

12 But my reading of the regulations, as they are  
13 today, would not prohibit mushroom growers from growing  
14 mushrooms in that material.

15 MR. LOCKERETZ: The question was whether they  
16 have to comply with the compost standards as now written,  
17 which are under the heading of soil fertility or something  
18 like that.

19 MR. CARTER: We got to things moving along,  
20 but, Zea, a quick comment on this compost task force, and  
21 then Dennis.

22 MS. SONNABEND: I think I might be the only  
23 person for the compost task force still here. While we  
24 didn't specifically address mushroom growing in the

1 compost document, the only really absolute requirement in  
2 the compost document right now is that you justify your  
3 composting program in your organic plan.

4 And so if it's being used for a specialized  
5 purpose such as mushrooms, I see that it can be covered by  
6 your whole rationale for your composting program being  
7 addressed in your organic plan.

8 And that would include why you use the carbon-  
9 nitrogen ratio you use; why you use the time frame you  
10 use; what you do to monitor it, all the things that any  
11 compost requires, but how it applies to your mushroom  
12 system.

13 MR. CARTER: Okay.

14 Dennis?

15 MR. HOLBROOK: My question is basically what  
16 you're utilizing is really not traditionally classified as  
17 compost for your mushrooms. Is it not a growing medium  
18 that you're using the grow your mushrooms in?

19 MS. ELLOR: Our growing media happens to be  
20 compost, definitely compost.

21 MR. HOLBROOK: Okay. But it's not a completely  
22 cured compost. Right?

23 MS. ELLOR: It depends on what you mean by  
24 completely cured. It certainly goes through adequate

1 temperature and turning profiles from the original  
2 standard, but it goes higher -- the temperature goes  
3 higher, which is one problem we had originally.

4 But there's an exception for that in the rule  
5 as it's written now -- or it's not a rule yet. The  
6 mushroom standard is not a rule yet, but it would fall  
7 under the crops. Right?

8 MR. MATHEWS: It falls under the existing  
9 standards as they are now. And what I'm saying is that  
10 with regard to the higher temperature, the purpose of the  
11 higher temperature is pest control. And so it would fall  
12 as a pest control for fungi.

13 MS. ELLOR: Right. I certainly see your point.  
14 It just happens that our growing substrate is compost.

15 MR. CARTER: Okay. Owusu, and then we're going  
16 to move on.

17 MR. BANDELE: I would agree with Dennis. If  
18 you're not using that material -- regardless of what the  
19 material is, if you're not using the material for soil-  
20 building, then to me it's really not a compost. And that  
21 would be the same like copper sulfate being applied as a  
22 soil amendment versus disease -- I think they're two  
23 distinct issues.

24 MR. CARTER: Okay. Tina, if you want to

1 respond, and then we're going to move on.

2 MS. ELLOR: You know, I would have to think  
3 that over, because honestly I've never considered that  
4 we're not using compost, because we've been using compost  
5 for over a hundred years, so I'd really have to think that  
6 over.

7 (General laughter.)

8 MS. ELLOR: Okay. Thanks.

9 MR. CARTER: Thank you, Tina.

10 Okay. We have Harriett Behar and then after  
11 that will be Diane Joy Goodman.

12 MS. BEHAR: Good morning. I just want to say  
13 I've sat here with you for the past two and a half days,  
14 and it's been very interesting. I really appreciate all  
15 the work and pre-preparation that you do before you get  
16 here, and there's a lot of different stakeholders in this  
17 industry, and you have a lot of different people coming at  
18 you with different opinions, and I really appreciate the  
19 deliberations that you do in listening to everyone.

20 I am Harriett Behar; I'm from the Independent  
21 Organic Inspectors Association. For those of you that are  
22 new members to the board, I just want to tell you a little  
23 bit about IOIA. We're an internationally recognized  
24 organization of independent organic inspectors.

1           We're recognized for our quality organic  
2 inspector trainings. We train inspectors around the  
3 world. We use experienced and active inspectors to lead  
4 these trainings, as well as experts in the various fields  
5 that the trainings are based upon.

6           We are continually upgrading our trainings, and  
7 we have started a training module based on the NOP rule,  
8 so both the new inspectors and the experienced inspectors  
9 will be brought up to speed, and of course as things keep  
10 evolving with NOSB recommendations and interim rules, we  
11 will keep bringing those into the inspector training.

12           So I just wanted to let the NOSB know that the  
13 inspectors are paying attention to what you're doing, and  
14 we're going to try to get that out to our membership.

15           In addition to our trainings, we also have an  
16 inspector forum on the internet, and a lot of things go  
17 back and forth there, so our inspectors are constantly  
18 talking about, How do you deal with this issue?, and back  
19 and forth.

20           And Jim is on that forum, and he, as well as  
21 Emily Brown Rosen, help us with understanding. So just to  
22 let you know that the IOIA members are paying attention.  
23 So when you do talk about inspectors, we're doing the best  
24 we can to get your information out there and on the

1 ground, being able to verify the NOP rule.

2 And with NOP implementation we need qualified  
3 inspectors more and more. And I know that that's a  
4 statement within the rule that the inspectors need to be  
5 qualified and directed to the NOP. I would just encourage  
6 you to review the inspectors that are being used by the  
7 accredited certifiers.

8 Okay. I would like some clarification from the  
9 NOP: if the interim final rule that's going to come out  
10 in September will include the technical corrections as  
11 well as materials, or is it only going to be a materials  
12 item? I know there were some technical corrections  
13 approved in the past two meetings.

14 MR. MATHEWS: We're still working on the  
15 technical corrections document. It is a separate  
16 document. The rule -- the interim final rule that comes  
17 out is just for materials.

18 MS. BEHAR: Okay. But there was a concern,  
19 especially amongst the -- yes?

20 MR. CARTER: Go to a microphone so we can get  
21 this on the record.

22 MR. NEAL: In addition to what Richard stated,  
23 there were some changes that -- some recommendations that  
24 were made by the board with respect to the National List

1 that some people did consider as technical corrections,  
2 but they're not. They're actual direct changes to the  
3 National List, such as a the change in the section  
4 headings in Section 205.605 and .606. Those would be  
5 included in the interim final rule.

6 MS. BEHAR: Okay. Well, one of our major  
7 issues was the calculations of -- in order to determine  
8 whether the label will carry the word "organic" or "made  
9 with organic," and it states in the rule that it's based  
10 on the total weight of the finished product instead of the  
11 total ingredients; that was one of the technical  
12 corrections.

13 We really feel that one especially needs to  
14 come through, because as an inspector it's very difficult  
15 to inspect to a problematic rule.

16 I want to talk about the guidance documents  
17 that the certifiers give to their clients and also for the  
18 inspectors. My understanding is the NOP has been  
19 reviewing those, and I want to encourage the NOP to allow  
20 the certifiers to keep giving out these guidance  
21 documents.

22 The regulatory language is very difficult for  
23 operators to understand in many ways, as you know, and  
24 these clarification guidance documents are very, very

1 important.

2 We understand they are not to deny  
3 certification based on those guidance documents, but I  
4 would encourage the NOP in their accreditation review to  
5 look those over for compliance to the rule but to let them  
6 continue using those.

7 MR. CARTER: Willie has a question for you.

8 MR. LOCKERETZ: We've heard a lot today and in  
9 earlier days about verifiability and so forth. In your  
10 opinion, just dealing with the inspection part of the  
11 certification, are there any problems in the final rule  
12 about the things that would be difficult to verify, and if  
13 so, do you have any suggestions about what areas we might  
14 concentrate on, because we all want verifiable standards.

15 So you have a lot of experience in this line.  
16 What can you suggest?

17 MS. BEHAR: Well, the IOIA, as well as  
18 certifiers, have given numerous questions to the NOP to  
19 that effect. I can't right now go through all of them.  
20 The one specifically on the calculation of ingredients is  
21 one we really would like to see changed as soon as  
22 possible and clarified.

23 But it goes back to these guidance documents;  
24 the regulatory language is vague in many areas, and the

1 certifiers are providing clarification, in many cases, to  
2 their operators, and I just don't want the NOP to narrow  
3 the focus of those guidance documents; they're very  
4 important for both the inspectors and the operators to  
5 use.

6 MR. CARTER: Okay. Rick?

7 MR. MATHEWS: We fully intend that the  
8 certifying agents would use guidance documents to help  
9 their operations or clients come into compliance with the  
10 national standards.

11 Where we will scrutinize them is in the case of  
12 someone who is using a guidance document to actually  
13 create rulemaking. I guess the only thing I could think  
14 of right off the top of my head right now is in the case  
15 of pasture.

16 Let's say that their guidance for what is  
17 suitable pasture was to say, You can never have more than  
18 six cows per acre. I would argue with that, because if  
19 we've got a little bare patch of ground with a few sprigs  
20 of grass, that's not going to carry as many cows as  
21 something that has gone through an NRCS program for the  
22 development of adequate pasture, and so that kind of thing  
23 we would have a problem with.

24 The idea is that the cows would be on pasture,

1 that the quality of that pasture would be continuously  
2 improved, and that that pasture would provide a  
3 significant portion of that animal's nutrient needs.

4 MS. BEHAR: Yes. And NOSB recommendation on  
5 pasture for ruminants is something that we can inspect and  
6 verify.

7 MR. MATHEWS: Yes. And that's what we would be  
8 looking for from the guidance. And then, just to  
9 reiterate, we don't want a blanket statement that it  
10 absolutely has to be this, because then that takes away  
11 the opportunity for improvement.

12 MR. CARTER: Okay. Thank you.

13 Okay. Diane Joy Goodman and then Arthur  
14 Harvey.

15 MS. GOODMAN: Hi. I don't have anything  
16 written. This is just something that I wanted to bring up  
17 because it's very important to me, and I think that it's  
18 just a reality check for all of you.

19 First, I want to thank you for an excellent  
20 meeting, for Dave doing a fabulous job as chair, for all  
21 the committee chairs, for all the good work that you did,  
22 and especially to Rick and the NOP staff for accrediting  
23 everybody on time when you said you would and for all the  
24 work that went into it.

1           I want to about annotations, and the reason  
2 that I want to bring this up is the more detailed the  
3 annotations become and the more lengthy or wordy they  
4 become, the more difficult they're going to become to be  
5 adhered to on the ground.

6           And in the five years that I spent on the farms  
7 and the experience I had in reading labels on pesticides  
8 and on soil amendments, working with my partner, who had  
9 been farming all his life as a third-generation farmer,  
10 the attitude on the ground when it comes to regulation on  
11 a label about how you use something is taken with a grain  
12 of salt, at best.

13           The oversight for the use of the farmer picking  
14 up a bag of material or soil amendment and actually  
15 following the directions is going to be mixed with their  
16 own good judgment.

17           The ability of an inspector to actually verify  
18 that our annotations is going to be followed is going to  
19 be iffy, at best, if not overburdensome.

20           So my encouragement to you is to keep  
21 annotations to -- as close to nonexistent as possible;  
22 either decide to make a recommendation to approve a  
23 material or to not approve a material, one or the other,  
24 and come down on one side of it or not, so that it's

1 really clear to the operators what they can use, what they  
2 cannot use.

3           The more complicated it becomes, the less  
4 attention is going to be paid to the instructions that  
5 you're trying to give.

6           I think that's really critical, especially  
7 since what we're going to be dealing with, come October, I  
8 think is going to be quite a surprise to most of our  
9 organic community. I know from Ray Green in California  
10 and from conversations with NOP staff here the number of  
11 phone calls that are being received from conventional  
12 farmers and food processors about what's it going to take  
13 for them to get involved in organic production once we  
14 have an implemented rule, are astounding numbers of calls.

15           OTA and the organic community and certifiers  
16 are not getting these calls, because a lot of these people  
17 don't know who to call, so they go to who is familiar to  
18 call, and that's the Department and the agencies they're  
19 used to dealing with.

20           So we're going to be in for a real surprise  
21 with the numbers of people coming in. I'm real pleased  
22 about that myself, and I hope everybody else is, because  
23 it really reaches our goals of what we started to do here  
24 20 years ago.

1           But those folks are not going to be in tune  
2 with our little annotations. They're going to want to  
3 know what can they use, what can they not use. Just tell  
4 them what to do.

5           So on that note I just hope you'll take it with  
6 a grain of salt as well, and thank you very much again for  
7 your time.

8           Oh, one other thing: At the All Things Organic  
9 conference you know that there's an NOP session, where  
10 Barbara and Rick are going to be presenting what went on  
11 at this meeting. Any of you as members of the NOSB that  
12 can attend that session and contribute from the audience  
13 in the Q&A session, it will be very valuable to have you  
14 there.

15           We also have another session -- and this is for  
16 the folks in the public as well -- on farm bill and what  
17 the implications are. Elizabeth Nardi is coming from  
18 Senator Leahy's office to discuss the provisions that the  
19 organic community received, which is more than we've ever  
20 received in legislation before.

21           We have a lot of really great and interesting  
22 sessions coming up, so please do try to attend.

23           Thanks.

24           MR. BANDELE: Diane.

1 MS. GOODMAN: Yes?

2 MR. BANDELE: I appreciate your comments in  
3 terms of the annotations, and I understand that sometimes  
4 they are difficult to enforce, as are other parts of the  
5 rule itself, such as how many times you turn the compost,  
6 C-to-N ratios, et cetera.

7 But the fact of the matter is that sometimes  
8 these decisions are very, very difficult, and without the  
9 annotations -- it's hard enough getting things through,  
10 but without those annotations, some of the material would  
11 not even stand that chance.

12 So that's the thing, is trying to balance what  
13 you're saying with the needs of the farming community. It  
14 can be difficult, but I appreciate it.

15 MS. GOODMAN: Thank you. I'm aware -- thank  
16 you.

17 Other questions?

18 MR. CARTER: Other comments, questions, for  
19 Diane?

20 (No response.)

21 MR. CARTER: Thank you, Diane.

22 Okay. Arthur Harvey is up next, and then after  
23 that will be Susan Ulery.

24 MR. HARVEY: My name is Arthur Harvey, of

1 Canton, Maine. I am a chair of the inspectors  
2 subcommittee of OTA's quality assurance committee, which  
3 deals with standards.

4 Also I am the chair of the bylaws committee of  
5 the Independent Organic Inspectors Association. I'm a  
6 certified blueberry grower/processor, and beekeeper, and  
7 obviously these organizations and the bees are not  
8 responsible for my views.

9 (General laughter.)

10 MR. HARVEY: In the past I have directed many  
11 comments to the NOP, my congressman, and senators,  
12 Secretaries Glickman and Veneman, et cetera. A copy of my  
13 final blast is in front of you.

14 Since my efforts have not brought satisfactory  
15 results, I venture to place them before you. It may be  
16 asked why I do not submit formal petitions to amend the  
17 National List.

18 Well, the change I request is much deeper than  
19 that. In a nutshell, I want you to repropose the final  
20 rule within the framework of the Organic Foods Production  
21 Act of 1990.

22 Let me briefly describe six urgent matters  
23 which present significant legal issues as well as  
24 transgressions against consumers' and farmers' interests.

1           Number one: .606 contains language in the  
2 second paragraph which in effect repeals OFPA  
3 6517(c)(1)(C). The law requires a listing of specific  
4 materials that have been through a TAP process and been  
5 reviewed by this board.

6           But the board has shied away from this  
7 responsibility. The result is a blanket approval, in  
8 advance, for every agricultural product, including those  
9 with unknown effects on health.

10           It is an outrage that a certified organic  
11 product may contain 5 percent of conventional ingredients,  
12 none of which have been reviewed. It may also be that  
13 precise names of these ingredients may not be disclosed to  
14 the NOSB, the NOP, or the consumer if food groups are  
15 labeled.

16           For certified "made with organic" the situation  
17 is even worse.

18           Number two: .501(b)(2) reverses a long  
19 traditional of federal minimum standards which have the  
20 beneficial effect of promoting competition among  
21 manufacturers. Examples include the Consumer Product  
22 Safety Commission, Interstate Milk Shipment, Coast Guard  
23 equipment standards, to name a few.

24           Now the USDA, without a statutory basis, is

1 attempting to eliminate competition among certifiers.  
2 This is contrary to the pattern in Europe. It has already  
3 lowered the organic standard in my sector by allowing  
4 blueberry growers to manage their fields with long-lasting  
5 herbicide applied once every seven or eight years and  
6 marketing two thirds of their crops as organic.

7           Number three: .605(b) is category of  
8 synthetics which should be forbidden in processed food,  
9 according to OFPA 6510(a)(1) and 6517(c)(1)(B)(iii). The  
10 NOSB has struggled with this and made some ambiguous  
11 decisions.

12           The result is .600(b) and .605(b), which are  
13 likely to be invalidated by a court if this board and the  
14 NOP do not come to their senses.

15           Number four: The exclusion of wholesales,  
16 distributors, and most retailers flies in the face of OFPA  
17 6502(10). The NOP explains this exclusion in the  
18 preamble, page 80555: "Certifying these handlers would be  
19 an unnecessary burden on the industry."

20           I believe that it's well known that two-thirds  
21 of all violations of organic integrity occur in these  
22 excluded operations, so the question I pose is, why should  
23 farmers assume the burden when the primary violators do  
24 not?

1           Number five: .304(b) and .100(a) require that  
2 70 percent organic products be certified, but OFPA  
3 6510(a)(4) says all certified products must contain at  
4 least 95 percent organic ingredients. Also, 6505(c)  
5 exempts these products, so any enforcement action under  
6 .304(b) will probably be thrown out by a judge.

7           Number six: .504(b)(4) and (5) do not protect  
8 the consumer interest. Transparency requires public  
9 access to certification documents more meaningful than the  
10 name and address of the producer's business office plus  
11 the category of products.

12           For starters, why not disclose the farm plan,  
13 leaving out financial and marketing data. That would be a  
14 long step toward implementing OFPA 6506(a)(9) and 6515(g).

15           MR. CARTER: Time.

16           MR. HARVEY: Thank you.

17           MR. CARTER: Thank you, Arthur.

18           Questions for Arthur?

19           (No response.)

20           MR. CARTER: Thank you, Arthur.

21           MR. SIEMON: You want us to start all over  
22 again. Right?

23           MR. HARVEY: I'm afraid you'll have to do quite  
24 a bit of that. Yes.

1 MR. CARTER: Okay. Susan Ulery and then Emily  
2 Brown Rosen.

3 MS. ULERY: Susan Ulery. I'm here for the  
4 Synergy Company, which is kind of minority interest in the  
5 organic goods, because we produce dietary supplements.

6 And we're a minority because dietary  
7 supplements traditionally haven't been interested in the  
8 organics business. Our company was founded with that as  
9 the base, and we're running into a problem with spirulina,  
10 which is -- we produce a 70 percent "made with" product,  
11 and spirulina's a big deal in that product.

12 And we understand that the Chilean nitrate  
13 issue has been postponed several times and, unbeknownst to  
14 me, got postponed again, because I came here yesterday,  
15 expecting to get in on the agenda.

16 So I'm a little bit at a disadvantage, because  
17 I haven't heard your questions or viewpoints, and I would  
18 really like to know what they are so that I can be  
19 prepared for September.

20 At any rate, you've thrown us a curve ball,  
21 because the NOP increased its scope, and now we apparently  
22 are not going to proceeding as a dietary supplement under  
23 the AOS; we're going to be under the NOP, and we have to  
24 make labels and brochures, and our website's getting

1 posted and updated.

2           And as a small business, this curve ball is  
3 going to be really expensive and really painful if we lose  
4 the Chilean nitrate issue and we can't claim organic  
5 spirulina in this product.

6           And so I just wanted to bring that perspective  
7 to you, that -- I mean, I'm in some ways glad that the NOP  
8 is stepping up to increase its scope, because it will make  
9 it maybe easier for people like us to know where we're at,  
10 because when you have different standards applying to  
11 different aspects of the organic industry, it's really  
12 hard to know, as a user -- and I plague our certifier with  
13 questions all the time.

14           But we don't have very much time. You know,  
15 these labels that I've got going to the printer when I get  
16 back to work next week -- well, I don't know if they're  
17 going to be any good in October or after October. So  
18 that's an expensive thing for us.

19           MR. CARTER: Susan, just to -- and the reason  
20 that that is being postponed was at the request of some of  
21 the folks within the industry that they didn't think that  
22 there was enough notification --

23           MS. ULERY: Because of the soil-based petition  
24 that paralleled this but was going in the opposite

1 direction. Right?

2 MR. CARTER: Well, I'll just -- Kim, if you  
3 want to add --

4 MS. BURTON: Yes. I was surprised when Susan  
5 came up to me yesterday and said what her purpose was for  
6 to be here.

7 The petitioners -- as we discussed yesterday,  
8 the petitioners for the spirulina were in agreement that  
9 we could postpone this vote, and to my knowledge, they  
10 said, Oh, yes, everything's fine and dandy with it.

11 So I apologize for that. I also encourage you  
12 to do written comments about that TAP review, because in  
13 reality --

14 MS. ULERY: And I have submitted to Katherine.

15 MS. BURTON: In reality, we didn't have any  
16 other comments on that from the industry, other than the  
17 two petitioners, so we really weren't even aware of your  
18 needs.

19 So I do apologize for that. And see you in  
20 September.

21 MS. ULERY: Hopefully.

22 MR. CARTER: Sounds like a song.

23 Go ahead, Jim.

24 MR. RIDDLE: Well, I'd like to respond to your

1 issue about the scope being extended now to include  
2 dietary supplements and several other large product  
3 categories, because the preamble clearly stated that they  
4 were outside of the scope when the final rule was  
5 published, and now there's been a change in that  
6 interpretation fairly late in the game for a company to  
7 have to change formulations, have to change labels, and  
8 get certified.

9 MS. ULERY: Yes. It feels like somebody's, in  
10 an old Western, shooting at your feet, and you're hopping  
11 from foot to foot, and you just don't know which foot  
12 you're going to land on.

13 MR. RIDDLE: Well, yes. This wasn't --

14 MS. ULERY: I gather this is not my own  
15 experience only.

16 MR. RIDDLE: You aren't alone. But I think you  
17 bring up a very valid point that does need to be  
18 considered thoughtfully both by the board and the NOP, is  
19 the full implications of this change in scope.

20 MS. ULERY: And we're all dying to hear what  
21 those are, but -- and that brings me to my next point,  
22 which is the October deadline. I don't know how that's  
23 going to play out for us and our certifier, and I don't  
24 know what your intentions are since you've thrown this

1 curve at us at this point.

2           It might be prudent to -- you know, if the  
3 whole point of going through this exercise of having the  
4 NOP is to encourage standardized organic products, maybe  
5 this is one of those cases where you want to give dietary  
6 supplements and the other categories more time to come  
7 into compliance and more time for the board and the NOP to  
8 understand the issues as you bring these products in,  
9 because there are portions of the NOP that don't really  
10 apply very well to, for instance, dietary supplements.  
11 I'm going to restrict my remarks to those, because that's  
12 what I know.

13           The three food groups designation on a "made  
14 with" label -- Pure Synergy, which is our main product,  
15 has 62 ingredients, and we've got like six categories of  
16 ingredients. Only two of those categories are 100 percent  
17 organic, so we could choose two of those to list.

18           If you're talking about marketing and telling  
19 the consumer what's in the product, it kind of undercuts  
20 us for all those other ingredients that are organic that  
21 we've managed to pull together and put in the product.

22           Do you understand what I'm saying? So to limit  
23 us on the "made with" panel declaration to, one, require  
24 us to list three food groups, which the OAS didn't, and

1 then to limit them to three -- we don't like that.

2           So just so you know, it doesn't fit very well  
3 with what we do. And I understand that it fits pretty  
4 well with most food categories, but supplements are a  
5 little different.

6           On the spirulina issue, just in case I can't  
7 make it in September and just to highlight the main import  
8 of what I was trying to say in my letter, which hopefully  
9 you will have, is I believe there's a strong need to  
10 distinguish between soil-based agricultural needs and  
11 restrictions and then here you've got a category of  
12 growing that's in a pond or a tank and it's closed and  
13 contained.

14           And it may be that it deserves a totally  
15 different rule or consideration. And I understand when  
16 you're crafting rules, to make exceptions is horrible for  
17 the enforcers, for the regulators; you don't want them.  
18 But it's a sorry fact that you get to have them, and I  
19 would really urge you to make room for a product like  
20 this, because these two companies, Cyanotech and  
21 Earthrise, have had a really strong commitment to  
22 organics, and certainly our company has, and we're going  
23 to have the rug pulled out from under us, and all those  
24 years of promoting organics and trying to get people to

1 understand why they're important -- we lose.

2 One last point --

3 MR. CARTER: Okay. You need to wrap up,  
4 because we lost track of your time; we thought you were  
5 done with your comments, and so we quit the time here, so  
6 just very quickly, if you could summarize.

7 MS. ULERY: Yes. Public perception that Marty  
8 was talking about, the use of the term "certified organic"  
9 versus "organic" -- I think those of us who work in this  
10 world very closely tend to forget about the consumers and  
11 what they know and don't know; they don't know anything.

12 I can't tell you how many times I have people  
13 say, Why organic? Why should I pay that much for that?  
14 Certified organic -- I think it's really important that  
15 you let people make that claim.

16 MR. CARTER: Okay.

17 MS. ULERY: Thank you. Oh, and communicate  
18 more on your website, please.

19 MR. CARTER: Okay. Rick.

20 MR. MATHEWS: With regard to your labels, when  
21 were you planning to start using the labels that you were  
22 ordering this week?

23 MS. ULERY: August.

24 MR. MATHEWS: August?

1 MS. ULERY: Yes. See, the lead times are often  
2 very long, and then of course you've got issues of  
3 expense. If you run a really small print job, they kill  
4 you with price. The labels can go from being eight to  
5 nine cents a piece for the ones I'm thinking of to being  
6 more like closer to 20 cents.

7 MR. MATHEWS: Okay. Are you aware that the  
8 labeling requirements actually kick in October 21, and  
9 that any label that is applied to any product prior to  
10 October 21 can still be found on the shelves after October  
11 21?

12 MS. ULERY: Yes.

13 MR. MATHEWS: Okay.

14 MR. CARTER: Okay. Thank you.

15 MS. ULERY: Thank you.

16 MR. CARTER: Emily, and then after that we have  
17 Mary Mulray. Is she here?

18 VOICE: Yes, she's here.

19 MS. ROSEN: Hi. Emily Brown Rosen, Organic  
20 Material Review Institute.

21 I just have a few problems I wanted to address  
22 on the whole proposal about rearranging 205.606 and also a  
23 couple of comments on incidental additives in livestock  
24 feed. And I believe Mary's going to talk more about 606,

1 too.

2 I really appreciate the effort that the board  
3 has made to try and fix this wording. It is very  
4 confusing and needs clarification. People don't know what  
5 that list is supposed to represent: Is it the total  
6 universe of commercially nonavailable ingredients? Is  
7 anything allowed and these ones must be organic? So it  
8 needs to be cleared up.

9 However, I think that the solution isn't well  
10 thought out yet at this point; I think it's premature to  
11 make a change based -- I know you voted this -- I believe  
12 you voted this as a final recommendation on a change.

13 However, it conflicts elsewhere with the  
14 definition of nonagricultural ingredient in the rule, so  
15 there's obviously a few glitches here that the definition  
16 says that, for instance, of a nonagricultural ingredient,  
17 that such things as -- for the purpose of this part, a  
18 nonagricultural ingredient also includes any substance  
19 such as gum, citric acid, or pectin extracted from,  
20 isolated from, or a fraction of agricultural products so  
21 that the identity is unrecognizable.

22 Now, this has always been a problematic  
23 definition, but you can't take pectin off the list when  
24 the definition says pectin is nonagricultural.

1           So I think that you need to look at the impact  
2 also on the rest of the nonsynthetics on the list, because  
3 some of them are clearly agricultural, too.

4           So my suggestion for the time being is that we  
5 get a general policy clarification from NOP to say that  
6 nonorganic ingredients are allowed -- anyone is allowed  
7 under the commercial availability; just clarify the  
8 general intent of that and then open up for more comment  
9 and fixing up of how to restructure those items on the  
10 list.

11           There has been really no public notification of  
12 this big change. Right?

13           MS. BURTON: Yes. It will go [inaudible].

14           MS. ROSEN: Oh, okay. Good. All right.

15           So I have more ideas; I can talk to you more  
16 about that later. And it's a tricky thing, but we're not  
17 quite there yet.

18           MS. BURTON: Just a comment: Why it came up so  
19 quickly was we are receiving petitions now to add  
20 materials, and, quite frankly, we're out of money, so we  
21 just wanted to at least get that out there, and I  
22 encourage comment. So anything would help.

23           MS. ROSEN: Right. And along that line  
24 further, we need -- if you're going to rank something as

1 agricultural and outside the scope of the list, we need a  
2 clear line drawn and criteria. Also, we want to make sure  
3 you're not just passing the buck on the decision here,  
4 because some of these materials that we're suddenly  
5 calling agricultural have a lot of sort of caveats about  
6 how they're produced, if they're a synthetic or natural  
7 form; the gelatin, like two out of those four forms were  
8 produced not using -- you could not make them organically.

9           So does that mean they're, by de facto, not  
10 commercially allowed and therefore anyone can use them?  
11 In that case, you should just put it on the list so it's  
12 clear that it's allowed, rather than have certifiers  
13 running around trying to investigate bone factories in  
14 Iowa and find out how they're making this stuff. You  
15 know, it's not clear that way.

16           But we can talk more about that later. I just  
17 think there are some problems and it needs to be further  
18 addressed.

19           Incidental additives in livestock feed: You  
20 know, I was very comfortable with that, going in, as a  
21 guidance document; I'm really uncomfortable with that  
22 going into the National List as a whole big, huge category  
23 that could be totally misinterpreted.

24           I dug out from my files, which I didn't have

1 yesterday -- I think you should go back and look at FDA's  
2 comments on the feed additive issues; they had some  
3 language suggestions, and they discuss their authority  
4 with AAFCO, and I think it's well within the bounds of  
5 clarifying FDA's rule to put that information out as a  
6 guidance document, and I think that would be -- I just  
7 think it would be more advisable.

8           If you wanted to put positively in that  
9 carriers are required from organic sources, you know, as  
10 are required by FDA to be on the label, that would be a  
11 positive thing you could add in, but I wouldn't want to  
12 put in this large category of incidental additives  
13 without -- you know, I just think it could be misused.

14           It also sets the precedent that FDA is an  
15 acceptable TAP reviewer, as far as organic is concerned,  
16 and I don't know if you want to make that step.

17           All right. Thanks.

18           MR. CARTER: Comments, questions for Emily?  
19           Willie?

20           MR. LOCKERETZ: A question for Emily and I  
21 guess Rick as well. I understand your concern about  
22 blanket approval of a large category of ingredients, but  
23 am I correct in thinking that since this would be only  
24 interim final rule, that if an objectionable one was

1 discovered, it would be easier to remove that than it  
2 would be if it were the full rulemaking process?

3 And is that good enough for you, to assuage  
4 your concerns about blanket acceptance?

5 MS. ROSEN: Well, this is not just blanket  
6 incidental; it could be anything in 21 CAR, practically.  
7 The question is of where they're allowed, and it has to be  
8 really clear to producers that they're allowed only as  
9 secondary ingredients, say, so it's down the list and it  
10 is minor and exempt.

11 But I don't think that will be clear on just a  
12 straight listing on the National List, and I think it  
13 would be better to explain it in a position paper that's  
14 really clarifying how FDA regulates these things.

15 So it's already in law; it's not like  
16 reinventing the wheel.

17 MR. CARTER: Okay. Rick?

18 MR. MATHEWS: The regular rulemaking process  
19 will take at least 18 months. What we have tried to do is  
20 come up with a solution to provide these materials -- the  
21 availability of these materials to people before October  
22 21.

23 So we have, as I've stated previously,  
24 consulted with the attorneys and then granted permission

1 to go with an interim final rule.

2 The interim final rule will have a comment  
3 period provided for within it. People can weigh in as  
4 much as they want. If problems come up, this thing could  
5 go back to proposed rule and then go from there to a final  
6 rule.

7 So something that we would be saying is, Okay;  
8 it will automatically be okay until we had to then go back  
9 and do the full rulemaking process on it.

10 So I don't know if that helps Willie any more  
11 or not.

12 MR. LOCKERETZ: Well, how does it compare  
13 between going to full rule after there's been an interim  
14 final versus going to full rule just from the beginning as  
15 far as how long it would take? In other words, to answer  
16 Emily's objection --

17 MR. MATHEWS: What I just said, Willie, is that  
18 the provision is effective upon the date specified in the  
19 interim rule, which would, in all likelihood, be -- it's  
20 either going to be -- I'm hoping it will be upon  
21 publication. That's our goal, that it would be effective  
22 upon publication.

23 If you went out with a proposed rule, there  
24 would be a minimum of probably nine months before it

1 became effective.

2 Well, now, it would be more than that; I mean,  
3 it would take us nine months to just publish the interim  
4 final rule, and then there'd be another nine months after  
5 that.

6 So you're talking a minimum of 18 months before  
7 it would become effective under the normal rulemaking  
8 process. This other way it's going to take whatever time  
9 it takes us to get the interim final rule out.

10 Does that help?

11 MS. ROSEN: Can I ask one question about that  
12 timing?

13 MR. CARTER: Yes.

14 MS. ROSEN: So if you have to go -- if you have  
15 an interim rule and then there's too much comment and you  
16 have to go back to a full proposed rule, what happens in  
17 between? Like does the stuff that was proposed in interim  
18 stay until the rewriting, or do you revert to the  
19 original?

20 MR. MATHEWS: It depends on the scope of the  
21 problem, and it's also something I'll have to refer to the  
22 attorneys.

23 MS. ROSEN: Thanks.

24 MR. CARTER: Thank you, Emily.

1 MS. ROSEN: Okay. Sure.

2 MR. CARTER: Okay. Mary Mulray and then Marian  
3 Casazza.

4 MS. MULRAY: Hello. My name's Mary Mulray.  
5 I'm speaking today as an OMRI board executive committee  
6 member, TAP reviewer, MPPL committee member of the OTA,  
7 and interested industry member.

8 I too want to commend the board on their hard  
9 work preparing for this meeting and their diligent  
10 deliberations of the issues during this meeting, and the  
11 NOP for their hard work regarding accreditation,  
12 preparation for this meeting, and responding to the  
13 endless questions that come up about organics.

14 My comments are directed to processing  
15 materials and the removal of the list from 205.606 for  
16 those materials that are nonorganic agricultural  
17 materials, which I agree to in principle, and some of  
18 these comments will be duplicates of some of Emily's  
19 comments.

20 205.606 states that any nonorganically produced  
21 agricultural commodity may be used in accordance with the  
22 restrictions specified in this section and when the  
23 product is not commercially available in organic form.

24 I'm specifically not addressing the issue of

1 commercial availability in this section, except  
2 peripherally in one of my examples.

3 I want to support Kim's recommendation that  
4 third-party review of this materials is critical; I also  
5 believe there needs to be a clarification and/or guidance  
6 document on these issues, and I understand that the  
7 Organic Trade Association has requested this in the past  
8 via the MPPL committee.

9 There's still a fair amount of confusion as to  
10 what's an agricultural material, a nonagricultural  
11 material, and what is synthetic or nonsynthetic, or what's  
12 really defined as natural.

13 An agricultural product is defined as any  
14 agricultural commodity or product, whether raw or process,  
15 including any commodity or product derived from livestock  
16 that's marketed in the United States for human or  
17 livestock production.

18 The key issue here is "raw or processed." In  
19 the nonagricultural definition, it says a substance that's  
20 not a product of agricultural, such as a mineral or  
21 bacterial culture that is used as an ingredient in an  
22 agricultural product.

23 For the purposes of this part it also includes  
24 any substance such as gum, citric acid, or pectin that is

1 extracted from, isolated from, or a fraction of an  
2 agricultural product so that the identity of the product  
3 is unrecognizable in the extract, isolate, or fraction.

4 And as Emily stated, we have created some  
5 confusion, because those things are listed. Pectin, gums,  
6 for example, are listed as agricultural materials in  
7 205.606, yet they're in the definition of nonagricultural  
8 materials.

9 And I know the Materials Committee is working  
10 on this; I just want to support that work.

11 In addition, is corn starch or rice flour, for  
12 example, recognizable or unrecognizable as corn or rice,  
13 the agricultural commodity? The question is how much  
14 processing is allowed for a product to be considered  
15 agricultural.

16 And then in the definitions of synthetic and  
17 nonsynthetic, which I won't go into, essentially there  
18 needs to be lines drawn and further guidance there as  
19 well.

20 Examples of processing materials considered at  
21 this meeting give good examples: gelatin was considered  
22 an agricultural material, but depending on the process, it  
23 may be synthetic or nonsynthetic.

24 Two of the nonsynthetic forms could not be made

1 organically because of the processing input. So does that  
2 mean they are de facto allowed, since they could never be  
3 commercially available as organic?

4 Shellac bleach was not added to 205.606 in the  
5 past, since it was synthetic, but unbleached shellac was  
6 considered to be consistent with .606. How will  
7 certifiers and inspectors know the difference when  
8 reviewing formulations?

9 The larger nonorganic food processing industry  
10 does not understand these concepts at all, and there's  
11 much confusion within the organic industry, so I believe  
12 more clarification is needed.

13 A clear positive list of allowed materials  
14 listed somewhere would be helpful.

15 I want to recommend that certifiers look to  
16 third-party review systems such as OMRI to evaluate these  
17 materials and make a determination. OMRI and the  
18 reviewers would need guidance from the NOSB before  
19 carrying out this process, however.

20 Once there's clarity on these issues,  
21 processors and handlers should encourage their suppliers  
22 of these materials to become listed as brand-name listings  
23 to ensure that they would meet the requirements of  
24 205.606.

1 Thank you.

2 MR. CARTER: Thank you, Mary.

3 Any questions for Mary?

4 MS. CAUGHLAN: You're giving us your written  
5 input, Mary?

6 MS. MULRAY: Yes. I haven't printed it, but I  
7 can.

8 MR. CARTER: Okay. And also be sure to give a  
9 copy to the reporter over there if you have time.

10 Thank you, Mary.

11 Okay. Marian Casazza, and then we have Leslie  
12 Zuck.

13 MS. CASAZZA: I'm Marian Casazza. I'm the vice  
14 president of quality systems for Quality Assurance  
15 International, QAI.

16 First of all, QAI would like to welcome the new  
17 NOSB members, and we appreciate all the hard work and  
18 dedication that all the NOSB members have put into all of  
19 the work that you've been doing. We empathize with the  
20 difficulty of dealing with all of the issues that are  
21 involved.

22 We would like to remind the NOSB that the  
23 annotations will add to the time and cost of certification  
24 and that they may increase the difficulty in forming

1       equivalency agreements with foreign governments.

2                 We'd like to request some clarification on the  
3 materials list as it relates to postharvest. Some  
4 materials on the crop list like floating agents represent  
5 processing on the farm, while waxes are found on the  
6 processing list.

7                 At what point does postharvest transfer from  
8 crops to processing? Certifiers need to be clear on which  
9 list is applicable.

10                Based on this meeting and the public comment,  
11 QAI is preparing for a complete public testimony for the  
12 next NOSB meeting, dealing with these issues and others as  
13 they pertain to the impact on certification agents.

14                Finally, on Monday, Mr. Bass from Country Hen  
15 presented some testimony in which he represented his  
16 organization as QAI-certified. Although they were  
17 certified with QAI in the past, they do not currently hold  
18 a QAI valid certificate, and I've asked Mr. Bass to  
19 contact QAI office to clear up this situation.

20                MR. CARTER: Okay. Thank you, Marian.

21                Comments or questions for Marian?

22                Okay. Thank you.

23                MS. CAUGHLAN: Just one comment: You indicated  
24 that you were planning on doing public testimony. We

1 always welcome your written comments timely as they go  
2 along; those are what help us in our job mostly.  
3 Certainly we welcome public comment, but you indicated  
4 waiting. I would just say put your thoughts to us ASAP.

5 MS. CASAZZA: [inaudible].

6 MR. CARTER: Okay. Why don't you speak into  
7 the microphone, please.

8 MS. CASAZZA: I'd just like to put more thought  
9 into the comments that we have from this meeting --

10 MS. CAUGHLAN: Certainly.

11 MS. CASAZZA: -- and put it into written  
12 form --

13 MS. CAUGHLAN: But again --

14 MS. CASAZZA: -- or public comment for the next  
15 time.

16 MS. CAUGHLAN: Thank you.

17 MR. CARTER: Okay. Leslie Zuck and then,  
18 looking at this next name here, the way it's signed in, it  
19 says Mary Mesh; I wonder if that's Marty's sister.

20 VOICE: I think it's his chicken scratch.

21 MR. CARTER: Yes, it's his chicken scratch.  
22 Okay. Leslie, go ahead.

23 MS. ZUCK: Hello. I'm Leslie Zuck, executive  
24 director of Pennsylvania Certified Organic. On Monday I

1 came here to support the board's draft recommendations for  
2 poultry outdoor access and dairy replacement animals.

3 I still support your poultry outdoor access  
4 recommendation as amended, and I still support your  
5 amended draft recommendation on dairy replacement animals.

6 Surprise, surprise.

7 So, having said all that -- that's just the  
8 however -- I just really want to emphasize that the  
9 clarification the board is working on on the dairy  
10 replacement animals that they -- once -- if they're  
11 brought onto the farm after the herd is converted, must be  
12 organic from the last third of gestation, unless  
13 commercially unavailable, is very, very important and  
14 very, very necessary.

15 On Monday Mr. Mathews asked the Livestock  
16 Committee to justify, one, why their clarification was  
17 necessary; two, who it was a problem for and, three, what  
18 the economic justification or impact was for that  
19 clarification or guidance that they were submitting.

20 I'd like to suggest some of those answers.  
21 One, why is it needed? Nearly all the certification  
22 agencies I have spoken to that certified dairy operations  
23 interpret the rule as requiring organic replacement  
24 heifers; however, one certification agency that does not

1 require organic replacement heifers certifies a lot if not  
2 most of the dairy cows in the US.

3           So who is it a problem for? Well, it's a  
4 problem for the 7000 cows and their farmers in  
5 Pennsylvania, because the rules are different, depending  
6 on who certifies them. And clearly this is not where we  
7 want to be.

8           The language, I will admit, of the rule is  
9 contradictory; it is confusing, and it unintentionally  
10 allows for different interpretations, so we need a  
11 solution.

12           And I guess here's where I kind of have to fess  
13 up, admit that I am also an attorney, because one of the  
14 first things they will teach you in law school is, you  
15 know, in a situation where you have a contradiction or a  
16 question of interpretation or an ambiguity is to look to  
17 the reason behind the rule. Why is it there? What is it  
18 meant to do?

19           And that's not always easy. Sometimes you have  
20 to go and research legislative intent, check out the  
21 congressional records, all that. But we're pretty lucky  
22 in this case, because we have the preamble to this very  
23 rule, which spells out that the intent of the rule is to  
24 require organic replacement animals, whether raised on the

1 farm or purchased from off farm.

2           So I'll read from page 80570: "The conversion  
3 provision rewards producers for raising their own  
4 replacement animals, while still allowing for introduction  
5 of animals from off the farm that were organically raised  
6 from the last third of gestation."

7           This should protect existing markets for  
8 organically raised heifers while not discriminating  
9 against closed-herd operations.

10           Finally, the conversion provision cannot be  
11 used routinely to bring nonorganically raised animals onto  
12 an organic operation. It is a one-time opportunity for  
13 producers working with a certifying agent to implement a  
14 conversion strategy for an established, discrete dairy  
15 herd in conjunction with the land resources that sustain  
16 it.

17           I think that's pretty clear. A blanket  
18 allowance for transitioning commercially produced heifers  
19 would discriminate against farmers who raise their own,  
20 which is something we certainly should want to encourage,  
21 and the preamble states that this is not the intent.

22           It's also a problem, however, for those  
23 operations who specialize in raising certified organic  
24 heifers for other organic dairy farmers. Allowing

1 nonorganic replacements would be a huge -- make a huge  
2 economic impact on those heifer operations, many of which  
3 are young farmers just starting out; they hope to have  
4 their own organic dairy herd someday, but right now they  
5 can't afford the equipment or the land to get into it, and  
6 it is in the best interest of the entire organic dairy  
7 community to encourage these new farmers, and it would be  
8 a great detriment to lose them.

9           It would have an impact as well on the organic  
10 dairy farmers who rely on purchase replacement heifers,  
11 because they want to buy organic heifers, so they don't  
12 want to buy conventional or commercially produced heifers  
13 when they need to get a few of their own if they can't  
14 raise enough for themselves.

15           So we need to have the requirement to be in  
16 there in order to ensure the integrity of the organic  
17 dairy products, and still if you do have that commercial  
18 availability clause in there, it still makes it fair to  
19 regions of the US where there aren't an available supply  
20 of the organic heifers.

21           Thank you. Questions?

22           MR. CARTER: Questions?

23           (No response.)

24           MR. CARTER: Okay. Thank you, Leslie.

1           Okay. Marty Mesh and then Liana Hoodes.

2           MR. MESH: Marty Mesh, with Quality

3           Certification Services, Florida Organic Growers.

4           If there's any hesitation about getting ready  
5           for enforcement, I think we all recognize that it should  
6           be a highest priority for USDA, and certifiers need to  
7           know exactly how it will work and when.

8           I said years ago that USDA should not release  
9           the first proposed rule, then the next one, without  
10          including an enforcement section. The response was  
11          always, Don't worry; we're the USDA. We'll take care of  
12          enforcement.

13          I urge you to get prepared and use egregious  
14          examples to achieve widespread compliance quickly. The  
15          industry came to USDA partially for that reason. It's  
16          been a very long time, and the lure of easy money may  
17          tempt some folks to misbehave.

18          It should be made clear the mislabeling and  
19          outright fraud of consumers will not be accepted by the  
20          United States government and that enforcement time lines  
21          will be swift.

22          I applaud the members of the board who  
23          recognize and take appropriate actions when a conflict of  
24          interest exists and encourage careful consideration in

1 this area as you deliberate on materials.

2 We will await the NOP's response concerning the  
3 use of "certified organic" on the label; appreciate the  
4 dialog, and hope the decision will be made, then  
5 communicated to the industry and certifiers quickly.

6 I was thankful that the past members of the  
7 NOSB were here to aid the current board. I appreciate the  
8 vast amount of work and preparation on the part of a very  
9 overtaxed USDA staff to prepare for the meeting and  
10 appreciate the transition that the older members helped  
11 the new members make.

12 I'd like the tables to be arranged in the  
13 future so that us in the peanut gallery can pass notes, if  
14 we're not going to be called on by the chair, because  
15 there's a lot of expertise in the room that I think you  
16 guys could take advantage of, and I appreciate the chair's  
17 ability to facilitate a difficult meeting.

18 I want to Eric Sideman and the rest of the  
19 members of the compost task force for the excellent work  
20 of the problem that organic farmers have expressed the  
21 utmost concern about: the conflict of interest -- I mean  
22 the compost issue that needed attention.

23 Thank you. However, the language is a bit  
24 cloudy when you have compost and high-quality compost with

1 the same time, temperature requirement but only a pathogen  
2 reduction to differentiate them.

3 This may cause mandated pathogen testing of  
4 compost for use in a compost tea or at least a question of  
5 whether or not high-quality compost is safe, in the mind  
6 of a consumer.

7 Overall I feel there's a lack of sensitivity to  
8 the challenge of verification of the standard and  
9 especially annotations, as you put more and more on  
10 certifiers and inspectors to verify.

11 We need guidance on what is sufficient  
12 documentation to verify exceptions to the standards: too  
13 hot, too wet, too dry, in whose opinion? Is letters from  
14 two vets, three vets, one vet sufficient to be the  
15 exception to the rule.

16 If certifiers are to verify that folks are  
17 compliant, some clear direction on what we are to verify  
18 is helpful. As Carol and many other people have said  
19 articulately: What is verifiable and what is enforceable?

20 We want to thank USDA for agreeing to look at  
21 fixing the government-mandated spray issues that I've been  
22 trying to bring up. Hopefully you could fix it in the  
23 interim final rule that's being published before October  
24 21. For USDA to say they couldn't fix it because of

1 existing rule language, your policy interpretation ability  
2 was evident with the nonallowance of organic meat labeling  
3 and then through magical nonUSDA rulemaking but with  
4 policy interpretation, organic meat appeared.

5 And then finally I encourage the peer review  
6 panel to get implemented, set up, and start work as soon  
7 as possible.

8 Thank you.

9 MR. CARTER: Okay. Thank you, Marty.

10 Rick has a comment.

11 MR. MATHEWS: I want to comment on the  
12 enforcement program. And as you well know, Marty, and as  
13 all of the other certifying agents in this room know, you  
14 have already started that process through your  
15 application.

16 The certifying agents are the first line of  
17 enforcement of this program. You will be the ones who are  
18 the eyes and ears of the organic industry. You will be  
19 telling us when someone who is not certified by you is  
20 alleged to be in violation or when you think that one of  
21 your competitors as a certifying agent is not doing  
22 something that is allowed for under the standards.

23 So I remind the certifying agents they have a  
24 huge role in enforcement of this program.

1 MR. CARTER: Okay. Oh, I'm sorry, Willie.

2 MR. LOCKERETZ: More a question for Rick, I  
3 guess, but Marty referred to what he hoped would be put  
4 into the interim final rule by September and had to do  
5 with mandated spray programs, I believe.

6 MR. MATHEWS: And conflict of interest.

7 MR. LOCKERETZ: Conflict of interest, yes, of  
8 course. The word processor is set to put that phrase in  
9 every second page.

10 But, Rick, am I -- I believe there will be two  
11 interim final rules -- is that correct? -- one dealing  
12 just with materials for the National List, which that's  
13 the one you're trying for by September? Am I correct in  
14 this?

15 The interim final rule that deals with other  
16 issues such as the ones he raised, is that a second  
17 interim final rule? And if so, will it be by September 21  
18 as well?

19 MR. MATHEWS: The only interim final rules that  
20 we are doing are for materials. All other rules have to  
21 go through the proposed rule -- final rule process.

22 The technical corrections docket is just that,  
23 a technical corrections docket and will not be seeking  
24 public comment, and therefore will not go through that

1 type of rulemaking process.

2           Marty's issue is that Marty doesn't like the  
3 fact that the rule provides that if there is a mandatory  
4 spray program and your crop is sprayed, the rules provide  
5 that, because you were subject to a mandatory spray  
6 program that applied a prohibited substance to your farm,  
7 the rules provide you do not use the organic status for  
8 that parcel that was treated with that prohibited  
9 substance; you do, however, lose the organic status of  
10 that crop.

11           What Marty is trying to do is to get us to tie  
12 it to the 5-percent rule. I'm not making any obligations  
13 on that.

14           MR. MESH: Thank you for your consideration.

15           MR. MATHEWS: Yes. I am considering it, but  
16 I'm not committing anything.

17           MR. MESH: Or compensating farmers would be --

18           MR. MATHEWS: We won't be compensating.

19           MR. RIDDLE: Well, this seems like a very  
20 important issue, and should it be something that the Crops  
21 Committee should consider and possibly add to the work  
22 plan drafting some language, working with Rick on this  
23 consideration of the issue?

24           MR. MATHEWS: This is not a new issue. This is

1 an issue that's been going on for as long as they've been  
2 trying to put this rule out and get it fully implemented.

3 This is an issue that's been vetted many times  
4 in many ways, and the sad truth may be that if you want to  
5 grow a certain crop in an area where they're going to  
6 treat, maybe you shouldn't be growing there.

7 I mean, it's just like with all the other  
8 prohibited substances out there.

9 MR. MESH: Or maybe the government shouldn't be  
10 spraying.

11 (Laughter and applause.)

12 MR. CARTER: Okay. Thank you, Marty.

13 Liana Hoodes and then Brian McElroy.

14 MS. HOODES: Liana Hoodes, National Campaign  
15 for Sustainable Agriculture. I just have a few quick  
16 comments. I'm not going to read at high speed today.

17 Unfortunately, I want to reiterate something  
18 that I spoke about earlier about the role of NOSB  
19 clarifications, and I want to commend the work of this  
20 board. It's always -- I know how much work you do, and  
21 then I'm always amazed at what comes out of these meetings  
22 and the huge amount of work that it takes to draft  
23 recommendations and clarifications.

24 Our concern is that, other than the area of

1 materials, what does really happen to these  
2 recommendations once you've had the vote and they leave  
3 NOSB? The waters were muddied even more during this  
4 meeting about whether a recommendation is an enforceable  
5 clarification to the rule or an unenforceable guidance  
6 document.

7           What are the criteria for making these  
8 characterizations, and who makes these decisions? What is  
9 the status of all those recommendations that you have made  
10 over the years? And where do we find this? I urge you as  
11 a board to follow through on what this process is.

12           Secondly, we heard about -- we heard a lot of  
13 comments this week, and we now all understand that there  
14 clearly is certified organic product on the market that is  
15 certified by a USDA -- recently USDA-accredited certifier  
16 that violates both the letter and the spirit of the law  
17 regarding accreditation, certification, and production.

18           And absolutely the certifier in many cases is  
19 the place where enforcement starts, but in other cases it  
20 involves the certifier. We hope the Department moves very  
21 swiftly to protect the market and the farmers who must  
22 compete against fraudulent product. It's very important;  
23 it can't wait for a year.

24           It's got to happen soon, or the market's in big

1 trouble.

2           And finally, this whole example highlights the  
3 fact that conflict of interest is a many-splendored thing,  
4 and it can take many forms, and I propose that you  
5 seriously -- the program and NOSB consider that farmer-  
6 based certifiers may actually safeguard against many forms  
7 of conflict of interest. Keep on looking at this.

8           I know it's clearly a hard piece to work on,  
9 but there are many times when it is those farmer-based  
10 certifiers who do protect us.

11           That's it.

12           MR. CARTER: Thank you, Liana. And I would  
13 just say, as a follow-up to your first comment, that is a  
14 big issue and one that the board and the NOP have had a  
15 number of discussions on, particularly the last couple of  
16 months, about the implementation of recommendations from  
17 the NOSB.

18           Barbara Robinson has particularly agreed to go  
19 through and help us compile a list of NOSB recommendations  
20 and what has happened, and we want to use that as the  
21 basis, then, to start analyzing, you know, what's getting  
22 implemented, what's not, and how can we make the process  
23 more effective.

24           MS. HOODES: Excellent. Thank you.

1 MR. CARTER: Okay. After Brian we've got  
2 Amelia Adams.

3 MR. McELROY: Hello. Brian McElroy,  
4 certification services manager for California Certified  
5 Organic Farmers.

6 And as others have said, again, congratulations  
7 to the NOP staff. All of you and the USDA quality systems  
8 staff have all been under a lot of pressure. Don't go  
9 into the bunker. There's going to be a lot of complaints  
10 and a lot of discussion, but don't go into the bunker.  
11 Stay out here; we're all on the same side.

12 Quickly, I have submitted written comments on a  
13 specific topic, but a couple of things that have come up  
14 that I want to comment on quickly and then get to my  
15 written comments is there was this handling operation  
16 ingredient affidavit which I'm sorry I haven't  
17 participated in, and I apologize for that, but I want a  
18 change to maybe perhaps off-line discuss the relationship  
19 of this affidavit to Section 205.500 and the obligations  
20 of the certified operation. And maybe I can do that off-  
21 line with the two of you.

22 MR. RIDDLE: It's just being posted for  
23 comment.

24 MR. McELROY: Okay. I misunderstood that it

1 was adopted as a guidance document. Okay.

2 MR. RIDDLE: It was posted from committee for  
3 comment.

4 MR. McELROY: Good. Thank you. Okay.

5 Next topic: I want to support Marty Mesh's  
6 comments about the use of the terminology "certified" and  
7 emphasize that, though terminology "certified" is in most  
8 of the certification programs, name is part of our  
9 trademark name, so whatever decision comes down on that,  
10 could we be very cautious to retain the opportunity for us  
11 to keep our names.

12 Then now to the comments that I've written, and  
13 I won't read them; I'll try to maybe discuss it in plain  
14 language so that there's another opportunity to explain  
15 it.

16 This is back to accreditation according to the  
17 NOP program versus accreditation to the ISO-65 program.  
18 And the CCOF has now become accredited to two different  
19 programs and have two different accreditations, and we  
20 fully expect that we will end up with two accreditation  
21 site visits.

22 I have been assured by USDA staff that we will  
23 have one site visit and that those two will be combined;  
24 however, we've been assured in the past that the gap

1 between ISO-65 and the NOP program was to be resolved in  
2 the past, and it wasn't.

3 And now here we are faced with these two  
4 different accreditation programs, and I believe that when  
5 the auditors walk out that they will do their job by the  
6 book, because that's what they're paid to do, and the book  
7 will be that they've got two different sets of standards  
8 to verify, which is going to mean two different  
9 accreditation visits.

10 Now, this whole NOP program has been very  
11 focused on making sure that certification happens to one  
12 standard, and in the process we have suddenly created two  
13 different accreditation programs.

14 You know, we've had two giant steps forward,  
15 and this is one step back. So I really encourage this to  
16 be resolved at the highest level possible in the USDA,  
17 because it cannot be resolved at Mr. Mathews' level,  
18 because the quality assurance program is separate from the  
19 NOP program.

20 We're dealing with two different program  
21 managers, from my understanding, and I may be wrong on  
22 that, but we need to go up to the level where finally the  
23 two program managers are supervised by the same person so  
24 that there can be some sort of resolution to this issue.

1           Let me tell you why I think the issue's  
2 extremely important. One, as I said, organic  
3 certification programs are subject to two accreditations  
4 in order to qualify product for export to the European  
5 Union, and 90 percent of us have to do that.

6           This is an added expense and administration on  
7 organic certification programs that will surely be passed  
8 on to organic producers.

9           The second part of this: European Union  
10 regulators now have evidence of the ways that the NOP  
11 program do not comply with ISO-65. This will surely be a  
12 point of discussion on any trade agreement.

13           An NOP-accredited program that applied to the  
14 ISO-65 program was denied ISO-65 accreditation and has  
15 been awarded NOP accreditation. When you go to the  
16 website and you look at the ISO-65 accredited programs,  
17 you see a list. That list is not the same as the list of  
18 the NOP-accredited programs.

19           There are ISO-65 accredited programs that have  
20 "under review" marked next to their name. You go to the  
21 NOP list, the lists don't match.

22           The gap is not that wide. I think it can be  
23 resolved, and the Accreditation Committee chairman has  
24 brought this issue up in the past, and I think you have

1 some documentation to help look at the differences.

2           However, the more these lists go on and the  
3 more we have differences in these lists, I'm afraid the  
4 wider the gap is going to go.

5           So that pretty much sums it up; it's a bit of  
6 an arcane issue, and I'm really hoping -- I'm sorry you're  
7 taking a little break. It's well deserved, but this issue  
8 really is key. We're headed for nine months here, until  
9 October -- well, probably down to six months now; I'm not  
10 counting, but we're going to have some problems with the  
11 European Union over this issue, I have no doubt.

12           Thank you.

13           MR. CARTER: Thank you, Brian.

14           Questions or comments for Brian?

15           Willie?

16           MR. LOCKERETZ: Can you tell us a little bit  
17 about this particular case of, I think it was, ISO-65  
18 denial and USDA accreditation awarded, if I got it  
19 correctly? Give us a sense of what and how the  
20 differences were.

21           MR. McELROY: I don't know, because the  
22 differences were not revealed to me. It wasn't our  
23 program; it was another program that those issues are  
24 confidential. But I'm sure the NOP staff and the USDA

1 quality assurance staff could go through those items with  
2 you.

3 MR. CARTER: Okay.

4 MR. McELROY: Thank you.

5 MR. CARTER: Thank you, Brian.

6 Amelia Adams and then it looks like Doug  
7 Cathert [phonetic]?

8 MS. ADAMS: Hi, everyone. I am Amelia Adams,  
9 and I'm represent Quality Certification Services and  
10 Florida Organic Growers. I am certification coordinator  
11 for Quality Certification Services.

12 I, like everyone else, would just simply like  
13 to thank you for all of your hard work. I think that that  
14 pretty much covers that. And I would like to speak for a  
15 moment from the standpoint of organic certification.

16 There's been a lot of terms thrown around  
17 regarding guidance documents and the intent of the final  
18 rule and so forth and so on. And I can tell you that I  
19 spent countless hours reviewing the final rule, and I  
20 believe I have a pretty good idea of the intent of it.

21 However, what I think doesn't matter. I can't  
22 certify to intent. I have to certify to what's in black  
23 and white. I can't even certify to a guidance document,  
24 and this becomes more and more important as the industry

1 is moving away from the core of farmers and processors who  
2 fully believe and live their lives according to organic  
3 integrity and division of their organics and are  
4 emotionally and physically involved in the organic  
5 movement.

6 This industry is bigger than that now. There's  
7 people in it simply just for the money, whether we like it  
8 or not; it's a mushrooming industry.

9 And these people don't really care about  
10 guidance documents. They're going to do the minimum that  
11 is required to achieve organic certification. And you got  
12 to take the devil's advocate on a couple of things,  
13 unfortunately, and realize that when you create an  
14 ambiguous standard, the minimum is what is going to be  
15 accepted many times.

16 And I'd like to just go through the -- since  
17 it's -- not to beat a dead horse, but since it's fresh on  
18 everyone's mind, I'd like to go through the access to  
19 outdoors for poultry for a moment and tell you a little of  
20 what I can guarantee you I am going to hear from producers  
21 wishing to get around this recommendation, this standard.

22 "Organically managed poultry must have access  
23 to outdoors. Organic livestock facilities shall give  
24 poultry the ability to choose to be in the housing or

1 outside in the open air and direct sunshine."

2 I can guarantee you I'll have a producer come  
3 to me and say, Well, my house has a door on it; the  
4 chickens can choose to open it if they want to.

5 Next line: "The producer's organic system plan  
6 shall illustrate how the producer will maximize and  
7 encourage access to the outdoors."

8 Well, I showed them how to use the door. They  
9 see me go in and out three or four times a day; I showed  
10 them the movie Chicken Run. And, you know, while I'm not  
11 going to sign my name to that as certified organic,  
12 there's someone out there who will.

13 Same thing with organic certification agencies.  
14 They're not all in it for the organic integrity and the  
15 mission. A lot of them are in it for the money; a lot of  
16 them are created by the interest of these people who are  
17 in it for the money.

18 Same with organic inspectors. You can't count  
19 on guidance documents being the method to encourage the  
20 farm plan to be a better and better organic system.  
21 That's simply unfortunately not the way it is, and I would  
22 just like to express that view as an organic certifier,  
23 that those are some concerns that we have with guidance  
24 documents and intents of the standards.

1 Any questions?

2 MR. CARTER: Thank you, Amelia.

3 Any questions for --

4 Yes, Willie?

5 MR. LOCKERETZ: A generic version of a point  
6 that you raised concerning how much discretion the  
7 certifier has: There are arguments for giving the  
8 certifiers considerable discretion because of ecological  
9 and environmental differences around this big country of  
10 ours, but also -- well, in your -- would you like to see  
11 more or less specified in explicit instructions concerning  
12 the standards: the trade-off between the problem you  
13 described versus the fact that there really are  
14 differences from around the country that need individual  
15 interpretation?

16 Do you want us to be more or less explicit  
17 concerning how much you put into the black-and-white  
18 standards?

19 MS. ADAMS: I believe that there are ways --  
20 like you said, the environmental differences, area-  
21 appropriate, temperature-appropriate and so forth issues  
22 are very important.

23 As from Florida, that becomes very important.  
24 You can't do a lot of things in Florida that you can do

1 other places. But I believe that there are ways to still  
2 be specific while allowing for geographically appropriate  
3 methods.

4 I believe that there are ways to get around  
5 that. The same example would be the access to outdoors  
6 for poultry and the amendment that -- number two, bare  
7 surfaces other than soil do not meet the intent of the  
8 rule.

9 I believe that that, for example, can be  
10 fleshed out. I can guarantee you someone's going to come  
11 to me and say, Well, it doesn't meet the intent of the  
12 rule. I don't care about meeting the intent of the rule;  
13 I just want to make money. Is it allowed or not?

14 And that's -- you know, I believe that that can  
15 be fleshed out, regardless of geographical location and  
16 appropriateness.

17 MR. CARTER: Thank you.

18 Other questions or comments?

19 (No response.)

20 MR. CARTER: Okay. Thank you, Amelia.

21 Doug and then George Bass.

22 MR. CRABTREE: First I'll apologize for my  
23 penmanship. It's Doug Crabtree from the Montana  
24 Department of Agriculture. We're proud to be a newly

1 minted certifying agent under NOP.

2           Just a few quick comments, possibly questions,  
3 from Big Sky Country. One of the primary concerns of our  
4 soon-to-be certified clients deals with the seed rule, and  
5 more specifically the definition of "commercially  
6 available" and how we will require that to be documented.

7           And I would certainly like to have more  
8 clarification on that issue from NOP, and my hope is that  
9 it can be consistent among certifiers, because I don't  
10 think it is, from what I hear. I'm hearing that there are  
11 vastly different interpretations of commercial  
12 availability and the documentation thereof at this time.

13           One thing else, a related issue: I would like  
14 to see NOP come up with a list of seed suppliers that  
15 certifiers could use in verifying lack of commercial  
16 availability. I think that would go a long way to  
17 clarifying this confusing issue.

18           Another matter that is bringing a lot of  
19 concern from growers in our state: the definition of  
20 compost. We are hearing -- and I would second this, that  
21 it's an overly prescriptive definition, and it's going to  
22 be very difficult, if not impossible, for many growers to  
23 meet the definition of compost using the methods and  
24 products they have been using, especially in northern

1 climates with regard to the temperature requirement and  
2 also especially for smaller growers that may not have the  
3 equipment or the resources to follow this intensive method  
4 of preparation.

5 A third issue are treated fence posts. I'm  
6 getting a lot of questions up there: Can I use treated  
7 fence posts? If I already have them, will I be allowed to  
8 have livestock within fences using treated fence posts?  
9 Are there any allowed treatments currently for fence  
10 posts? How is this use regarded under the material lists  
11 and standards?

12 And can we grandfather in existing fences if  
13 they are treated with materials that may be judged as  
14 prohibited?

15 I guess those are my primary questions, so if  
16 anyone wants to respond, I'd welcome that. If not, I'll  
17 just enter them as official comments.

18 MR. CARTER: Okay. Anybody have specific  
19 comments?

20 Owusu?

21 MR. BANDELE: On the commercial availability  
22 issue, we -- the board has submitted a document to NOSB in  
23 terms of that issue. That is on the website, is it?

24 MR. RIDDLE: Our recommendation?

1 MR. BANDELE: Yes.

2 MR. RIDDLE: Yes. The board's recommendation  
3 would only be on the website in the minutes from that  
4 meeting where we passed it, but that gets back to the need  
5 to really consolidate those recommendations and have those  
6 available.

7 But we're still waiting on the NOP to respond  
8 to their request for public comments in the Federal  
9 Register notice, because commercial availability was  
10 clearly sought, and they're -- my understanding from what  
11 Rick's previous comments, that it's still being put  
12 together, so that hasn't been issued yet.

13 But I did want to respond to the fence post  
14 question, because it's clear to me in that language of the  
15 rule that existing installations are allowed. So this is  
16 for new installations and replacement purposes that  
17 treated wood is prohibited.

18 But on your question of are there any allowed  
19 treatments and what are the real practical alternatives  
20 for farmers, that's -- I don't have any clear answer. I  
21 mean, there's nothing on the list as a wood treatment  
22 right now that works.

23 MR. CARTER: Other comments or questions?

24 (No response.)

1 MR. CARTER: Okay. Doug, thank you very much.

2 MR. CRABTREE: Thank you.

3 MR. CARTER: Just to let you know, we in  
4 Colorado have been following what's been happening in  
5 Montana very closely as they try and move toward  
6 certification establishment.

7 MR. RIDDLE: Just one more point, Doug: The  
8 Crops Committee did submit and we endorsed a compost task  
9 force report -- you weren't here yet -- so you should take  
10 a look at that.

11 There's going to be further work done by kind  
12 of a subcommittee of that task force to develop some  
13 proposed rule change language.

14 MR. CRABTREE: Thank you.

15 MR. CARTER: Okay. Next we have George Bass;  
16 then we'll have Brian Leahy, and there are two others  
17 after that.

18 MR. BASS: I only have three comments, really.  
19 one is to --

20 MR. CARTER: Please identify yourself.

21 MR. BASS: George Bass, from the Country Hen.  
22 I started the organic egg business in this country, and I  
23 was pleased to do so before the legislation came out on  
24 organic stuff.

1           I want to thank the board. I've just been  
2 very, very impressed with what I've seen and heard, and  
3 I've enjoyed meeting everybody here. And I was not very  
4 happy about this access to the outdoors. I think the  
5 public doesn't really know much about poultry, and I think  
6 I do know something about poultry after 30 years in it,  
7 but I'll live with what you -- I think it's fair. I think  
8 you came with something that's nice, and it's good.

9           I don't think it really meets my standard. My  
10 standards would be a hundred birds per acre, but that's  
11 all right.

12           I'm an outlaw. I guess I'm not a member of --  
13 I'm not certified, and I learned that 15 minutes ago. And  
14 the only reason I can think that I didn't hear it before  
15 is one of our guy gals is getting married, in the office,  
16 and she's very, very excited about her future with this  
17 man, and evidently this letter never got to me.

18           And it's nothing that -- I feel very sorry  
19 about it, and I apologize for it, but we are going to try  
20 to make amends.

21           One of the reasons that I am an outlaw is that  
22 I've been waiting for a decision as to what to do with the  
23 access to the outdoors. I didn't know what to do, whether  
24 to move the farm or close the farm.

1           So -- but I'd like to talk on size of the -- of  
2 operations. I think if -- people kind of throw rocks at  
3 me because I am 67,000 hens and about 20,000 pullets, but  
4 I think the law of the supermarkets is dictating, and if  
5 you don't go along with the supermarket -- as they  
6 increase in size, you have to increase in size or you lose  
7 your business.

8           And I'm not going to increase any more; I'm  
9 going to increase about 10 percent, one barn, and that's  
10 it. I'm calling an end and I'm going to diversify. But  
11 I just thought I'd make that statement, because a lot of  
12 people do throw rocks at people that are bigger, and I  
13 think the opportunity is to get bigger. I think this  
14 thing is growing marvelously, and it's really up to all  
15 the things that you are doing, and I think you're cutting  
16 a lot of ground, and you're leading, I guess, the world in  
17 this kind of a movement, and I support it.

18           Third point is I think that Rick's group ought  
19 to be expanded by double or triple. I think the  
20 complexity, the amount of work that you're doing, the  
21 excitement of the movement, et cetera, et cetera -- and I  
22 will write a letter, and I think perhaps other people in  
23 the audience could write letters to their representatives,  
24 suggesting that the size should be increased.

1           That's all I've got to say.

2           MR. CARTER:   Okay.   Thank you, George.

3           Comments or questions?

4           (No response.)

5           MR. CARTER:   Okay.   Thank you very much.

6           Okay.   Brian Leahy and then Phil LaRocca.

7           MR. LEAHY:   I'm here to talk about

8 accreditation and conflict of interest.

9           MR. CARTER:   Please identify yourself.

10          MR. LEAHY:   I'm sorry.   I'm Brian Leahy.   I'm

11 the president of California Certified Organic Farmers.

12                  When I started growing organic I was a rice  
13 farmer in 1980, which is a program crop, which means you  
14 deal with the government, USDA, every day.   I think I was  
15 the first modern organic farmer to get elected to a county  
16 board.

17                  So I'm used to what USDA wants, and I'm used to  
18 their method, which is they tell you what they want, and  
19 they tell you how to get there.   And I recognize that this  
20 is a very unique program that we're running here, because  
21 USDA -- the government is actually giving a private entity  
22 the power to issue a federal license, so we're on new  
23 territory, which probably means we need to concentrate  
24 more on where we really stand, but we've been running just

1 trying to get accreditation going.

2           And so what we found was our conflict-of-  
3 interest issues are board members still involved in  
4 certification or at least still in the same legal entity  
5 as certification taking place.

6           So I had our attorney, who works for the  
7 largest nonprofit ag firm in the world -- and her  
8 specialty is bylaws -- write out the questions we had and  
9 sent them to USDA.

10           Those questions, we never did receive a written  
11 answer. We received a bench audit that said that we were  
12 not -- that they had questions on our structure. So we  
13 sent them some written materials, and then we never heard  
14 until the other day that we had problems with our  
15 structure.

16           And when I got here, I found that there were  
17 other organizations similar to ourselves who did set up a  
18 fairly similar proposal to ours that still have some  
19 certified members in the board, a mixed board, did get  
20 accredited and did not have the conflict-of-interest  
21 problem.

22           And what I'm talking about is communications  
23 and our need to be able to sit down and work things out,  
24 because we now have less 120 days to change legal

1 structures or to do something, and we're not exactly sure  
2 what we can do.

3 I know I have two models out there, but, you  
4 know, really what we have created is a partnership between  
5 the government and private industry, and we really need  
6 clear communications and mechanisms, and especially in  
7 circumstances we have here, where the same organization  
8 that writes the rules does the interpretation and then is  
9 also accrediting us and where there's conflicts, and then  
10 there's built-in conflicts where there should be give and  
11 take, and then we turn around, and the same organization  
12 is going to come and say, Okay; now we're going to look  
13 and see if you did a good job or not.

14 So we have, I think, a real major flaw in the  
15 whole system, but we also need -- we have about 110 days  
16 now, Richard, to really figure this out. I have a board  
17 meeting in a week and a half so that we can go through our  
18 legal requirements to get changes made.

19 So I don't know how we can -- I'd love to sit down  
20 this week, in the next few days, and talk and see if  
21 there's things we can agree on.

22 MR. CARTER: Okay. Are you done?

23 MR. LEAHY: I am done.

24 MR. CARTER: Okay.

1 Rick?

2 MR. MATHEWS: I believe the question has been  
3 posed to Barbara Robinson and that she has suggested that,  
4 because CCOF has many chapters, that you could be working  
5 amongst your chapters to certify the board members of each  
6 of those chapters.

7 MR. LEAHY: Part of the problem is we've had  
8 oral communications, which are always helpful, but it has  
9 to -- we need writing; we really need writing.

10 MR. MATHEWS: We'll provide that in writing to  
11 you.

12 MR. LEAHY: Okay. But -- all right. I guess  
13 what we were asking and what you said you'd provide -- I  
14 don't mean -- Richard, I'm not talking to you; I'm talking  
15 to USDA, federal government, on and on -- was we also need  
16 working models or, if we propose working models, that they  
17 are accepted, so that we can go ahead and make the  
18 structure changes, because we made structure changes based  
19 on what we thought was a good-faith effort.

20 MR. CARTER: Willie?

21 MR. LOCKERETZ: I can guess that after the  
22 initial list of accredited certifiers was put out, there  
23 must have been a lot of buzz, buzz, buzz among certifiers.

24 Do you have postmortem, as it were -- do you

1 have any indication of how widespread among certifiers the  
2 problems you encountered were?

3 MR. LEAHY: I believe there's eight  
4 organizations similar to ourselves, which are the -- have  
5 certified parties on the board that did not -- that had  
6 the same problem, which was they -- and what we received a  
7 little box that says we have 120 days to get this problem  
8 solved.

9 There's eight of us. I know -- I don't know --  
10 well, it's all on the web, so, yes, I know Florida's in  
11 that circumstance; I believe OCIA is, so it is fairly  
12 widespread.

13 MR. CARTER: Okay. Jim?

14 MR. RIDDLE: Yes, just to respond to Willie's  
15 question: We put together -- I just remembered this -- a  
16 table of all of the 42 accredited certifiers with the type  
17 of operations they're accredited for and then the five  
18 different categories of conditions that they are having to  
19 address in the next 120 days.

20 And there are nine certifiers with the  
21 organizational structure conflict-of-interest issue,  
22 including one state program. There's 21, so exactly half  
23 of the accredited certifiers are being told that they have  
24 to change their standards to be solely the NOP standard.

1           So, anyway, I can make copies of this for the  
2 board members here before we leave.

3           MR. LOCKERETZ: I have to leave. I want to  
4 apologize to any members of the public who are waiting to  
5 comment, but I just have to go because of catching a  
6 plane, so --

7           MR. RIDDLE: Okay. Could you get those copies;  
8 you grab yours and then have somebody bring them back, if  
9 you'd like that, on your way out?

10          MR. LOCKERETZ: [inaudible]

11          MR. RIDDLE: Well, I was just thinking you  
12 could have it now if you just stopped at the desk, put it  
13 on the USDA tab, if that's okay.

14          MR. LOCKERETZ: Okay.

15          MR. CARTER: All right.

16          Phil, and then our last commenter is Pete  
17 Gonzalues.

18          MR. LAROCCA: Seems like I'm always last. I  
19 want to thank you for your patience. I'm sure you want to  
20 get on to something else, as do I.

21          My original comment was to pick up where I left  
22 off on Monday, and I do want to appreciate this time, and  
23 that is to basically deal with --

24          MS. CAUGHLAN: Could you identify your --

1           MR. LARocca: I'm sorry. I'm Phil LaRocca. I  
2 am a certified organic grape grower, organic processor,  
3 and livestock producer as well, and also chairman of the  
4 board of the California Certified Organic Farmers.

5           Again, my original intention and my main point  
6 of the comments today is to address the NOP regarding  
7 federal programs. However, you all, since I'm in Texas, I  
8 do want to make a quick comment.

9           I just want to reiterate that at CCOF with its  
10 conflict of interest, we did not sit on our hands in this  
11 thing. We have hundreds of hours of staff and volunteer  
12 time, thousands of dollars' worth of attorney fees -- if  
13 you dealt with a law firm that big, you know they are not  
14 cheap -- to really try to resolve this, so, again, I just  
15 would -- I thank the NOP for giving us our accreditation,  
16 and I think if we keep up this dialog, we will resolve  
17 this problem.

18           The second comment I want to make -- and,  
19 again, this is not from my certifier hat but from my  
20 producer hat, regarding certified organic. I know our  
21 company -- and I can tell from a lot of people that I know  
22 in the industry -- we have spent a lot of time in  
23 promoting, through our business, certified organic: This  
24 bottle of wine is certified organic. This wool is

1 certified organic.

2 so I think you really need to take that into  
3 account, because I think by taking that off the label, you  
4 can lose some economic impact, because we have spent a lot  
5 of marketing dollars to educate the public that "certified  
6 organic" means that, that this product has been inspected  
7 to the best and the highest quality level of organic  
8 standards.

9 And we're a small company compared to larger  
10 companies, which also have used the same marketing tack.  
11 So I really think that needs to be considered when you  
12 look at the certified organic.

13 Okay. Throughout the course of two days,  
14 Jim -- or three days, Jim has mentioned NRCS programs.  
15 And I know several years Keith, through the NOP, has tried  
16 to make some impact in natural resource conversation  
17 documents.

18 This is extremely important that the NOP get  
19 involved with another government agency and let them know  
20 that we have organic producers out there.

21 Jim has stated very positive results from the  
22 State of Nebraska -- excuse me -- Minnesota. In  
23 California we are getting mixed opinions, and I say it is  
24 important -- I know the OTA is beginning to work on this,

1 but the government agencies in California are telling me  
2 they would like to hear something from the federal level.

3 I say this because right now there is an EQIP  
4 program through NRCS which is willing to cost-share  
5 anywhere from 20 to 70 percent to the producer to  
6 eliminate or knock down the use of pesticides or  
7 herbicides.

8 I have been told that, as an organic producer,  
9 we won't qualify for this program. And most of the people  
10 on this board realize that as an organic producer, we are  
11 constantly in the battle of eliminating pesticides and  
12 herbicides in our program. It is not like a, snap, wake  
13 up in the morning and you got this thing figured out every  
14 day; you always are facing something new out there.

15 So we should not be penalized for the fact that  
16 we are already achieving what this program is out to set  
17 its goal at. This is what I keep trying to tell these  
18 people: If you are putting in a program to eliminate the  
19 uses of pesticides and herbicides, then your goal is to  
20 take this off the market.

21 Well, if you have farms that are doing this  
22 already, they should be somewhat also involved in this  
23 compensation goal rather than just be said, You can't do  
24 it because you're already doing it.

1           So I think the NOP really needs to get involved  
2 in this, because as a government agency, NRCS looks at the  
3 book, and that's what I think Keith was trying to do:  
4 actually get it in their manual so that they had  
5 references to organic agriculture and they can see that  
6 there is a place for us.

7           Thank you.

8           MR. CARTER: Okay. Thank you.

9           Rick?

10          MR. MATHEWS: I'd like to restate something  
11 that I said earlier in the meeting, and I encourage  
12 everyone here that if you're going to the organic trades  
13 association show at the convention center, that you stop  
14 by our booth.

15          USDA will have a double booth there. It will  
16 be manned by people from not only the organic program but  
17 from risk assessment, who takes care of the crop  
18 insurance; from the foreign agriculture service; the NRCS  
19 people will be there. And we'll also have people from  
20 Agricultural Marketing Services direct marketing, which  
21 also deals with our farmers' markets.

22          So at least at this we are pulling together  
23 people for the purposes of, you know, having you learn  
24 what is available in those different programs. And, of

1 course, I'm sure that the people manning those booths  
2 would be more than happy to take any suggestions you might  
3 have back to the people that they work for to talk about  
4 what more could they be doing for organic than what they  
5 might already be providing.

6 MR. LAROCCA: I appreciate that, Rick; that's  
7 exactly what we need. That's what I was asking for.

8 MR. CARTER: Okay. Thank you, Phil.  
9 And our grand finale, Pete Gonzalues.

10 MR. GONZALUES: Thank you. As executive  
11 director of Oregon Tilth, I'm representing our nearly 700  
12 gardeners, consumers, and also agricultural producers that  
13 form the membership of Oregon Tilth. My comment is very  
14 focused, related to the compost tea, which I believe was  
15 passed in the last couple of days.

16 I'm sorry I was unable to provide written  
17 comment with a fully authorized signature in the short  
18 window between the release of this proposal and your  
19 decision; however, I would hope that you revisit one  
20 particular aspect.

21 There's an assumption stated in the task force  
22 recommendation stating that the critical determinant  
23 regarding pathogen growth in compost teas and extracts is  
24 the addition of carbon sources during the brewing process.

1           If that word "the" could be replaced with the  
2 word "a," I would agree that that is a critical element,  
3 but as biology teaches us, there are numerous -- there are  
4 other environmental factors which affect the growth of any  
5 population; in this case, oxygen is a critical factor, and  
6 so I hope that you would consider that oxygenation has a  
7 major bearing on this issue.

8           And in conclusion, I hope you will retract your  
9 prohibition of this progressive area of biological pest  
10 control. Simply because it can be done wrong does not  
11 mean this whole area of research should be prohibited.

12           Thank you.

13           MR. CARTER: Okay. Thanks, Pete.

14           Comments, questions?

15           (No response.)

16           MR. CARTER: Okay. Let me just close the  
17 public comment period here and then Rick has got an issue  
18 here on some clarification.

19           MR. MATHEWS: Yes. I was asked earlier -- I  
20 think it was by Arthur; they were trying for the notes to  
21 determine whether or not the access to the outdoors for  
22 poultry was regulation or for guidance.

23           In reality, its clarification. It's neither  
24 the -- it's not guidance document, but it's a

1 clarification of what the regulation means.

2 MS. CAUGHLAN: Point. Rick --

3 MR. CARTER: Okay. Goldie.

4 MS. CAUGHLAN: Could you expand a little more  
5 as to the impact of the -- of what you just said?

6 MR. MATHEWS: Well, the clarification helps  
7 people understand what it is they have to do to comply. I  
8 mean, there was so much debate about whether or not the  
9 bird physically had to go out the door. And now you have  
10 spoken with the voice of this board, saying, Yes, it has  
11 to go out the door.

12 So I see that as clarifying the regulation;  
13 we'll put that on the web to make sure that everybody  
14 fully understands the bird has to take a hike.

15 MS. CAUGHLAN: And this, as a clarification  
16 that you're saying, then, is it true, Rick, that we could  
17 further clarify as we get the input from more areas of the  
18 public and scientific impact -- that we could clarify it  
19 even further? Is that correct? It is a living document.

20 MR. MATHEWS: I would have to see what you're  
21 talking about. I mean, if you're going to start putting  
22 specifics as to what has to be out --

23 MS. CAUGHLAN: As long as we hold true --

24 MR. MATHEWS: -- in that --

1 MS. CAUGHLAN: -- to the rule --

2 MR. MATHEWS: As long as you hold true to the  
3 rule, that's okay. But if you start defining how much  
4 space, how many birds to the acre, et cetera, like George  
5 said that he would prefer to see a hundred birds to the  
6 acre -- if you come out and tell me that you want me to  
7 put into the rule that you have to have one acre for every  
8 hundred birds you're putting outside, I'm going to tell  
9 you you can't do that, because that is changing the rule,  
10 and so therefore we would have to go through the full  
11 rulemaking process to do that.

12 MS. CAUGHLAN: Thank you.

13 MR. CARTER: Okay. Kim?

14 MS. BURTON: If I could suggest, before the  
15 next meeting, or hopefully in the next couple of months,  
16 that we actually have a definition of the following:  
17 clarification document, a guidance document, and a policy  
18 document, so that when we present stuff to the NOP office,  
19 that we can actually head them as such, so that we know  
20 exactly what their intent is and where they should be  
21 going.

22 Thank you.

23 MR. CARTER: Very good suggestion.

24 Okay. Let me -- there's a couple of things; we

1 got a couple of things very quickly here.

2           Number one, our next meeting in September: I  
3 would ask that we schedule that -- we're already scheduled  
4 the 17th and 18th; I would say that we will probably need  
5 to meet the 17th, 18th, and 19th, using the 16th as a  
6 travel day. Okay? So please put that on your calendar.

7           MR. SIEMON: Just so I'm clear -- and work all  
8 the way till five o'clock on the 19th or half day for  
9 travel?

10           MR. CARTER: Well, I tell you what; when you're  
11 in DC, you're in the East, so you can leave at 6:00 and  
12 still get home by --

13           MR. SIEMON: Three full days?

14           MR. CARTER: Let's count on three full days. I  
15 think we're going to need it.

16           Okay. October: I would like to suggest that  
17 our meeting be around the 21st and 22nd; I hear that  
18 there's something going on then. But I think that it  
19 would be very helpful -- very good for us to be there  
20 during that, so if you would put that on your calendar.

21           Barbara said we're busy then.

22           MR. MATHEWS: And part of that busy-ness is  
23 just trying to get your charter renewed.

24           MR. CARTER: Yes, that's true. We'll work on

1 that.

2 Then a number of comments have come up on  
3 annotations. It just --

4 MR. SIEMON: [inaudible]. That's the first  
5 I've heard about that meeting.

6 MR. CARTER: Well, the 21st and 22nd has worked  
7 for us on the board. I just want the -- if we're going to  
8 have a board meeting and talk about these other issues, I  
9 think we need to have the board in town when the  
10 implementation date is, because I think we want to give as  
11 much publicity to the fact of this as we can.

12 Committee chairs: You know, a number of  
13 comments came up about the issue of let's not  
14 overannotate, and I think that that is a valid concern,  
15 but as the chair, I would just say -- would really direct  
16 that the committees -- it's very important that you go  
17 through and talk about what annotations need to be on  
18 there or not on there, and do that heavy lifting at the  
19 committee level, because if it comes to the board with a  
20 list of annotations, I intend to go through there as  
21 annotation by annotation and do the selection process  
22 there.

23 So really that detail work needs to be done at  
24 the committee level.

1           I really have nothing else. Is there anything  
2 else for the good of the order?

3           Again, I want to thank the new members that  
4 have come on; you've gotten up to speed very quickly.

5           Yes, George?

6           MR. SIEMON: I just wanted to make sure that  
7 Kim's request is a request from the whole board.

8           MR. CARTER: Yes.

9           MS. BURTON: Yes.

10          MR. CARTER: Just final comments here is,  
11 number one, I also want to express my appreciation to the  
12 board and the staff, as my first meeting as chair, of  
13 being patient with me as I go through a few things here.

14          I appreciate the work of the board that you've  
15 done here in the last few days, and particularly the  
16 staff. I know Katherine has been glued behind the laptop  
17 there, but, you know, this -- for all of the burps and the  
18 bumps that we hit as we go forward, I think that we're all  
19 headed in the right direction, and we need to recognize  
20 that from time to time.

21          So thank you all very much. Is there anything  
22 else to come before the board?

23          Jim?

24          MS. CAUGHLAN: I'd really like to thank the

1 chair very, very much.

2 (Applause.)

3 MR. SIEMON: [inaudible] motion to double the  
4 NOP staff.

5 MR. CARTER: Yes. That's right. One of the  
6 days the USDA will have as big an NOP staff as they have  
7 FSA.

8 MR. RIDDLE: Move to adjourn.

9 MR. CARTER: Okay. Motion to adjourn.

10 Second?

11 MR. LACY: Second.

12 MR. CARTER: Any discussion?

13 (No response.)

14 MR. CARTER: Hearing none, all in favor say  
15 aye.

16 (Chorus of ayes.)

17 MR. CARTER: Opposed, same sign.

18 (No response.)

19 MR. CARTER: The meeting's adjourned.

20 (Whereupon, at 12:00 noon, the meeting was  
21 adjourned.)

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C E R T I F I C A T E

IN RE: National Organic Standards Board  
LOCATION: Austin, Texas  
DATE: May 8, 2002

I do hereby certify that the foregoing pages,  
numbers xxx through 851, inclusive, are the true,  
accurate, and complete transcript prepared from the verbal  
recording made by electronic recording by Penny Bynum  
before the U.S. Department of Agriculture National Organic  
Standards Board.

\_\_\_\_\_  
(Transcriber) 6/09/2002  
\_\_\_\_\_  
(Date)