

UNITED STATES OF AMERICA
DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
TRANSPORTATION AND MARKETING PROGRAMS

NATIONAL ORGANIC STANDARDS BOARD MEETING

The Radisson Barcelo Hotel Washington
National Gallery Ballroom
2121 P Street NW
Washington, D.C.

Sunday
October 20, 2002

The above captioned meeting convened at 8:10 a.m.

Chairperson:

David Carter

BOARD MEMBERS:

Kim Burton
Materials Committee Chair
Handler Representative
Microquality Beverages
Chico, California

Mark King
Processing Committee Chair
Retail Representative
Indianapolis, Indiana

Owusu Bandele
Crops Committee Chair
Farmer Representative
Baton Rouge, Louisiana
Southern University

Jim Riddle
Accreditation Committee Chair
Certify Representative
Minnesota

George Siemon
Livestock Committee Chair
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Wisconsin

Rebecca Goldberg
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Environment Representative
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Michael Lacy
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Athens, Georgia

Kevin O'Rell
Organic Handlers Representative
Boulder, Colorado

Goldie Caughlin
Consumer Representative
Seattle, Washington

Barbara C. Robinson
Deputy Administrator
Transportation and Marketing Programs
USDA Agricultural Marketing Service

Dennis Holbrook
Crop Representative
Mission, Texas

George Siemon
Farmer Representative
Wisconsin

Ann Cooper
Consumer Representative
New York

Rosalie Koenig
Producer Representative
Florida

Nancy Ostiguy
Environmentalist Representative
State College, Pennsylvania

SPEAKERS GIVING PUBLIC COMMENT:

Grace Marroquin
Marroquin International

Mark Itzkoff, Esquire
Olsen, Frank and Weaver
Washington, D.C.

Diane Goodman

Janning Kennedy
Director of Handler Certification
California Certified Organic Farmers

Jack Jenkins
General Manager
Pacific Biocontrol

Dan Leiterman
Crystal Creek Company

Uruashi Ranga
Consumers Union
Consumer Reports Magazine

Tima Ellor

Thomas Harding
AgriSystems International

Kelly Shea
Organic Trade Association

Emily Brown Rosen
Organic Materials Review Institute

Bill Denevan
Apple Grower
CCOF

Jim Pierce

David Engle
Executive Director
Midwest Organic Services Association
Wisconsin

Chris Tompkins, Esquire
American Growers and Consumers

Marty Mesh
Florida Organic Growers Quality
Certification Services

OTHERS PRESENT:

Richard Siegel, Esquire

Katherine Dimatto
NOP

Jim Cranney
US Apple Certification

Bob Pooler
NOP

Tom Hutcheson

Robert Torla
EPA Pesticide Program

Mark Keating
Agricultural Marketing Service

Pete Gonzalez
Oregon Trust Incorporated

Andrea Caroe
QAI
Co-Chair
QAC Certification Subcommittee
OTA

I N D E X

<u>ITEM/PARTICIPANT</u>	<u>PAGE</u>
Remarks - Chairman Dave Carter	300
Public Comment Period	
Grace Marroquin	300
Mark Itzkoff	308
Diane Jay Goodman	311
Janning Kennedy	315
Jack Jenkins	328
Dan Leiterman	330
Uruaski Ranga	332
Tim Ellor	346
Tom Harding	351
Kelly Shea	356
Mark Itzkoff	363
Brown Rosen	364
Bill Denevan	372
Jim Pierce	386
David Engle	392
Chris Tompkins	397
Marty Mesh	402
Written Comments Read	404
Materials Review & NOSB Action	
Crops	411
Livestock	483
Committee Action	503

1 bigger things that we need to deal with.

2 That's what I want to say about ion change and
3 also that it then -- I'm just going to assume that will go
4 in that direction, I hope.

5 Another issue I want to bring up today is yeast,
6 organic yeast. Organic yeast is available, but
7 unfortunately, under the Federal Registry right now it
8 says that non-organic, synthetic yeast is allowed in
9 organic production.

10 I don't understand that and I really don't know
11 the right procedures to have this removed, because I don't
12 think it warrants a petition and I don't know what kind of
13 language or procedures you have to say is this a technical
14 error or is this a technical correction that can be made,
15 because certified organic yeast is available and it is in
16 all kinds of food products.

17 We are worried about other synthetics that come
18 into contact. Well, here is one that's allowed in the 5
19 percent of food production. I tried to find where was it
20 called a non-agricultural product and what is an
21 agricultural product, so I chased that around and I'm open
22 to being informed about that.

23 But the bottom line is it is a type of fungus
24 and we have certified mushrooms, we certify various other

1 sprouts, those kinds of things. I'm asking can we make a
2 technical correction that takes action now?

3 A petition would not be until next May and I
4 don't think the petition process is the correct way, but I
5 don't really know that for sure.

6 I made an investment of \$30,000, I'm sitting on
7 a warehouse filled with some yeast, because I was
8 operating under the premise that if an ingredient was
9 available as organic, people would need to use it.
10 Unfortunately, people don't all go by that. Unless you
11 have to or unless -- I was told by our certifiers, unless
12 they are trying to do a 100 percent label, then they'll
13 have to use it.

14 Otherwise, some people won't use it if they
15 don't have to. Presently, non-organic yeast is made on
16 molasses, which is a cheap byproduct of sugar production,
17 which that has been used in yeast production since the
18 grain shortages of World War I.

19 Conventional yeast production uses chemical
20 nitrogen sources, such as ammonia, ammonia salts and lyes,
21 plus a variety of acids, including sulfuric acid,
22 synthetic vitamins and growth substances. Conventional
23 yeast requires several rising stages after fermentation to
24 remove unpleasant tastes and odors. The resulting waste

1 water is heavily contaminated and requires complex
2 purification processes.

3 Certified organic yeast is grown on selected
4 yeast strains and lactic acid bacterial cultures are bred
5 in the wholly organic nutrient solution made from
6 certified organic grains, pure spring water and enzymes.
7 All microorganisms, raw materials are guaranteed GMO-free
8 or non-GMO.

9 The fermentation process uses no chemicals and
10 organic sunflower oil is used as an anti-foaming agent.
11 This organic yeast product requires no rinsing, since all
12 plant equipment is steam cleaned and disinfectants are
13 unnecessary. Even the waste water from the full plant
14 cleaning is free from contamination and the fermentation
15 medium also forms the basis for further organic products,
16 such as drinks.

17 These yeast products, if you go into Whole Foods
18 tomorrow and look, it's in your pretzels, your crackers,
19 all your savory flavors that are being developed, sauces,
20 gravies, baked goods, breads, cakes, bake mixes, all these
21 products are using yeast and it doesn't seem right that we
22 can say it's okay to use non-organic, synthetic yeast when
23 there is a certified viable product available on the
24 market place. Thank you.

1 CHAIRPERSON CARTER: Thank you. Questions?

2 Yes, Rick.

3 MR. WILLIAMS: I would refer you to -- and you
4 could also do the same with your certifying agents, to
5 205.301(b). This is the part that is addressing the
6 products that are to be sold as organic.

7 I quote one of the sentences: "Any remaining
8 product ingredients must be organically produced, unless
9 not commercially available."

10 That means if they're going to label their
11 product as organic and organic yeast is available, they
12 have to use organic yeast.

13 MS. MARROQUIN: Well, but 205, I think it's 605,
14 makes an exclusion.

15 MR. WILLIAMS: No, that doesn't make an
16 exclusion. That lists all the ingredients that are
17 allowed in products that are going to be labeled as
18 organic or made with, so that covers both.

19 MS. MARROQUIN: But yeast is listed in there,
20 nutritional yeast, autolyzed yeast and baking yeast and
21 all those are available.

22 MR. WILLIAMS: It's listed synthetic yeast is
23 allowed, but there's also the provision that if you're
24 going to call your product organic, you first have to try

1 to source it organically.

2 MS. BURTON: And then, Grace, the mechanism to
3 remove it from the list is to petition to remove, so that
4 is what I would encourage you to do, just so that if it is
5 available and you want to get it off the list, petition to
6 remove it from the list.

7 MS. MARROQUIN: Right. So are you saying that
8 presently the certifiers would have to enforce that, based
9 on what you were just saying?

10 MR. WILLIAMS: The National List has to be
11 enforced and the requirement that you go for the
12 commercial availability of the organic ingredient is
13 required.

14 MS. MARROQUIN: That's really interesting. I
15 think that it's a good thing, but I think that everyone
16 needs to know this and the certifiers need to know this as
17 well and one of the things with product development,
18 because there are all these new ingredients that are
19 coming and we have to have a mechanism where it doesn't
20 take -- they may take three to five years to develop these
21 ingredients and then it takes another year to get it
22 petitioned off. There has to be a fast mechanism to deal
23 with all these new ways of processing.

24 MR. RIDDLE: Just one thing. A lot of times the

1 certifiers or the manufacturers don't know that some of
2 these minor ingredients are commercially available that
3 are just being developed --

4 MS. MARROQUIN: Right.

5 MR. RIDDLE: -- in an organic form. It's my
6 understanding that the Department isn't going to be
7 maintaining a registry of minor ingredients, so it's
8 imperative for you to contact the certifiers, you know,
9 let the trade association, let the industry know that
10 these ingredients are available organically.

11 MS. MARROQUIN: We're working on that and the
12 challenge is when certifiers will say to their customers
13 you don't need to use it because of this. If I just point
14 that out, then they need to listen to me, right?

15 MR. RIDDLE: Yes, but also read the definition
16 of commercial availability, because it has to be in the
17 appropriate form, quality, quantity to fit the needs of
18 the manufacturer, too.

19 MS. MARROQUIN: Okay.

20 MR. WILLIAMS: Yes. You can't read one section
21 of this rule without having read all the sections of the
22 rule. Everyone needs to understand that the very first
23 thing is that that remaining 5 percent needs to be organic
24 if it's available. If it's not available and they can

1 demonstrate that it is not commercially available, then
2 the 605 kicks in and says that the synthetic is allowed.

3 MS. MARROQUIN: So you're saying 205.301(b)?

4 MR. WILLIAMS: Yes.

5 MS. MARROQUIN: And that's all I need to say,
6 besides petition?

7 MR. WILLIAMS: Well, no, that's not all. You
8 have to point out 205.301(b) and as Jim has pointed out,
9 the commercial availability provision and then also you go
10 to 205.605. The way it works is that you source it
11 organically. If you can't and you can demonstrate that
12 you can't, then you go to the National List to see if it's
13 on there. If it's on the National List as a synthetic,
14 then you're allowed to use it.

15 MS. MARROQUIN: Right. Thank you.

16 CHAIRPERSON CARTER: Thank you, Grace. I'm
17 sorry, I forgot to announce who was on deck on this, so
18 next up will be Chris Tompkins, followed by Colorado Sweet
19 Gold.

20 MR. TOMKINS: I'll pass for now, Mr. Chairman.

21 CHAIRPERSON CARTER: Okay. Do you want us to
22 come back to you though?

23 MR. TOMKINS: Yes.

24 CHAIRPERSON CARTER: Okay. So Colorado Sweet

1 Gold and then Diane Joy Goodman. I don't see her here
2 yet, but she'll probably be showing up.

3 MR. CHAMBERS: Chair Carter, I'd like to defer
4 my time to our representative.

5 CHAIRPERSON CARTER: Also, just to let you know,
6 we do have 17 folks signed up right now, so we will be
7 going probably until about 10:30 with the public comment
8 this morning.

9 MR. ITZKOFF: I'm going to try and keep mine
10 below five minutes, because we signed up for this before
11 we had our discussion yesterday afternoon, a lot of this
12 was covered.

13 I'm going to pass to the Board, if I may, just a
14 one page fact sheet on Ion Technology, which is the
15 purpose of my conversation this morning. The one thing we
16 really want to emphasize is the nature of ion exchange is
17 an electrical attraction rather than a chemical attraction
18 and I tried to bring a little visual aid, a little magnet
19 I took off a paper clip dispenser.

20 An ion attraction is strictly magnet, different
21 charges attract. When the ions separate, it's just the
22 same thing as taking the magnet away, they can attach and
23 detach with very little energy involved, very little
24 actual real bond involved. You can have -- there's no

1 firm attraction of one ion to another, they can be in a
2 matrix where they're actually held by a number of
3 surrounding ions.

4 It's really not what we would consider a
5 chemical bond, where you have one atom to one atom. When
6 you break that type of bond, you usually get a release of
7 energy, like when you burn wood in a fireplace, that's
8 breaking of a covalent bond.

9 We talked yesterday briefly about how ion
10 exchanges work. We have a column or a fluidized bed and
11 basically, once the column is filled with liquid or the
12 bed is filled with liquid, the ions disassociate. You no
13 longer have -- at that point, even before the food product
14 is introduced you no longer have the one-to-one attraction
15 and everything is essentially free.

16 What happens is as the food product with the
17 impurities is introduced, you get an equilibrium where the
18 concentration of the impurities in the ion exchange resin
19 increases, because there's nothing there, you have a
20 dynamic force exchanging the impurities for what's called
21 the counter ions. The counter ions then enter the food
22 stream and as it's flushed down the column, you constantly
23 get this interchange.

24 Eventually you'll hit a point where the column

1 is saturated and then it just has to be regenerated by
2 taking it off line, using a strong acid, strong base to
3 reverse the process and force the impurity ions out.
4 Again, it's pretty much all here in the sheet.

5 Again I'm going to be careful and try not to
6 waste your time. Two other points I wanted to make.
7 There was some discussion yesterday about direct
8 additives, secondary direct additives and indirect
9 additives. I'm going to refer the Board to a May 2002
10 publication by FDA. It's a guidance document for food
11 contact substance, called "Administrative Guidance."

12 One of the interesting points on that document
13 is in the section on "What is a Food Contact Substance."
14 It notes that there is no statutory or regulatory
15 definition of secondary direct and indirect additives.
16 These are terms that have been used in the Federal
17 Register, but there is no authoritative source to say
18 which is which.

19 If you're going to try and use that as a
20 discrimination as to what comes within the Board's
21 purview, what does not, you run into the problem that
22 there is no formal definition.

23 The food contact substance is defined by
24 statute, by Congress in FUDAMA 96, Section 409(h)(6) of

1 it could have been '98, it could have been '97, by a prior
2 Board, where we formed an enforcement task force under the
3 Accreditation Committee.

4 The job of the enforcement task force was to
5 create, among other things, a matrix of violations.
6 Members of the task force at the time were non-Board
7 members, including myself, Jim Riddle, Emily Brown Rosen,
8 under the direction of Betsy Lidan (phonetic), who was at
9 the time Chair of the Accreditation Committee.

10 Between us, we created a matrix that was based
11 on a penalty matrix developed by Miles McCavoy in the
12 State of Washington. I resurfaced this last night and
13 brought copies of this matrix for your review. We don't
14 have enough copies of it, I only made one copy. Maybe we
15 could make copies and the Board could get it later.

16 What we did was in the most simple way, we
17 created a list of -- one for livestock and one for crops
18 and handling, minor violations, moderate violations and
19 serious violations, with appropriate action that we
20 believed could be taken by both the certifier, whether it
21 was a private or a state certifier, whether it would be an
22 enforcement action at the State Department of
23 Agriculture's level or Attorney General, in the absence of
24 the State Department of Agriculture and then finally,

1 enforcement action by AMS.

2 While a lot of the context in which these
3 violations or compliance has changed over the years, the
4 action violation structure of what might be minor, what
5 might be moderate and what might be serious could be very
6 helpful at this point and it could provide the Department
7 starting point. It's something to jump off from, rather
8 than having to have another thing they have to create or
9 another thing you all have to create. I thought that this
10 might be helpful to submit and bring back to your
11 attention.

12 There is actually a tremendous amount, a wealth
13 of information in the archives of this Board that I'm
14 hoping that the Board Procedure Manuals will be able to
15 bring new Boards up to speed more on a lot of the
16 historical work that the Board has done.

17 It's a shame to sit here year after year after
18 year and see things come up in question that have already
19 happened and already been addressed or questions that had
20 come up with answers years ago, so this I'd like to submit
21 to you for your review.

22 There's one other thing I want to bring up and I
23 can't not say this to you this morning, because I thought
24 about it all night and I thought about it this morning a

1 lot and I kind of checked in to see how do I say this
2 right and how do I say it and I decided I'm just going to
3 speak my mind.

4 We have an opportunity in front of us right now
5 that is unprecedented for this industry, to comport
6 ourselves in a way that portrays this Board, this program,
7 this Department with pride and accomplishment for what we
8 have before us tomorrow. For those of us who have been in
9 this for years and years, this is the culmination of
10 tremendous commitment and tremendous work.

11 There is something afoot that strives to undo
12 this, that strives to discredit it somehow, tries to make
13 it not perfect enough and I find that putting this out
14 there, and whether it is under other organizations,
15 whether it's to the media, putting out there the word that
16 what we are doing here or what the Department had tried to
17 do cooperatively with this industry has not been good
18 enough, is a message that the public is going to read in
19 such a negative way.

20 There are already articles out there, there was
21 an article in the New York Times, I believe it was, last
22 week how the small farmer is getting a raw deal. Well,
23 the small farmer may just have to be a little more
24 creative right now, because what we are doing is changing

1 agriculture in such a grade scale, we may have
2 conventional agriculture coming in here, we may have
3 certification groups we've never seen before, but we are
4 so much further than we were 12, 20 years ago.

5 Even if we don't change agriculture exactly the
6 way we want, we can change it in little increments and
7 maybe in our lifetime we can see major pesticide reduction
8 use around the world. I think to not focus on this in any
9 participation of anybody in our community to undo the
10 credibility and the good work that we have going for us
11 right now is just unconscionable.

12 So congratulations on everything that we have
13 done and all the good that we can still do and hang in
14 there. Thank you.

15 CHAIRPERSON CARTER: Questions? Jim.

16 MR. RIDDLE: Diane --

17 CHAIRPERSON CARTER: You're not done.

18 MS. GOODMAN: Oh.

19 MR. RIDDLE: Thanks for digging up the
20 enforcement matrix. Do you have that electronically?

21 MS. GOODMAN: Yes, I do, and I sent it to Rick
22 and Barbara last night.

23 MR. RIDDLE: Okay. Great.

24 MS. GOODMAN: I sent the most recent, the last

1 --

2 MR. RIDDLE: Did you send that to me?

3 MS. GOODMAN: No, I didn't send it to you, but
4 you should still have it.

5 MR. RIDDLE: Would you, please? I know I
6 should.

7 MS. GOODMAN: I'll be glad to send it again.

8 MR. RIDDLE: That's the problem, it's on a
9 computer that was stolen.

10 MS. GOODMAN: I'll be glad to, Jim. Any more
11 questions?

12 (No response.)

13 MS. GOODMAN: Thank you.

14 CHAIRPERSON CARTER: All right. We have Janning
15 Kennedy, followed by Jack Jenkins.

16 MS. KENNEDY: Good morning. My name is Janning
17 Kennedy, I'm the Director of Handler Certification with
18 California Certified Organic Farmers. I'm here not to
19 necessarily represent CCOF so much as to represent my
20 clients, who aren't here.

21 Many of these are clients who are newly coming
22 to certification. They're facing a daunting task, but
23 these are the people who produce and sell products that
24 they create from raw materials. Basically, they're

1 creating wealth from our nation from the raw materials and
2 natural resources of organic agriculture.

3 They're entrepreneurs, but they're being caught
4 up in some little minor glitches that we're facing right
5 now and I just want to bring your attention to the
6 glitches and to the effects that they are having on actual
7 businesses out there, sort of a report from the field, as
8 it were.

9 These people are losing some critical materials
10 and ingredients, at least here in the short run, that
11 affect their production and that limit their markets and
12 affect the way that they can label their products. These
13 are materials that were acceptable and were used under the
14 old system, but right now they're sort of in limbo.

15 One of them, for example, is tartaric acid.
16 Tartaric acid is a critical ingredient for wine making,
17 for making organic wines or made with organic wines. I
18 have at least 20 organic wineries that are certified by
19 CCOF, at least five of them are brand new wineries, newly
20 into certification. Their organic system plans include
21 tartaric acid and I've had to notify them that tartaric
22 acid is technically not on the National List, that it is a
23 technical correction and that we're expecting technical
24 corrections by October 21, please, please let's get this

1 going.

2 Number two is calcium sulfate. Calcium sulfate
3 is a material that's used in soft tofu production. I have
4 a new operation called The Tofu Shop, located in Northern
5 California. At least 50 percent of its products contain
6 calcium sulfate. They can no longer -- after Monday, they
7 can no longer be labeled organic tofu anymore, because it
8 contains calcium sulfate, they can't even be labeled as
9 made with organic soy beans.

10 Again, this is an operation that doesn't have an
11 existing farm plan or existing system plan that it can
12 operate under. It has come in for certification since
13 April, since we were accredited by the USDA and we have no
14 other standards to certify them under except the NOP.
15 They're being told that they can't sell as organic their
16 soft tofu.

17 I understand that calcium sulfate was passed by
18 this Board, that the problem with it is that the rule
19 making process hasn't been completed and I'm just urging
20 you please, it's effecting people and it's effecting their
21 livelihoods and we need to move it along a little bit. It
22 is critical to certain people.

23 Another one is organic honey. I've got another
24 operation called Beckman's Old World Bakery, located in

1 Santa Cruz. Their major selling organic product is honey
2 wheat berry bread. The honey in it is over 5 percent by
3 weight, so they're being effected, because believe it or
4 not, they can't get organic honey. There is no organic
5 honey out there and there's no organic honey, because the
6 major honey producer has stopped selling his honey as
7 organic, because there are no standards for honey.

8 So it's effecting not just the honey producers,
9 but it's also effecting the bakeries down the line. I
10 understand that there are priorities and that making new
11 rules for products such as honey wasn't the highest one on
12 the list, but please just put it down for the record that
13 it is effecting people and it's effecting how they're
14 labeling their product, it's effecting their businesses.

15 Another quick one is ingredients coming from New
16 Zealand. We've got some beer manufacturers that have
17 always had organic hops that they've purchased from New
18 Zealand and they're being told now that they can no longer
19 label their hops as organic. This is a matter for the
20 Foreign Ag Service and I know that they're working on
21 agreements with New Zealand and I'm just crossing my
22 fingers that these come along really quickly.

23 The other thing I wanted to mention real quickly
24 is Section 205.310, where agricultural products handled on

1 an exempt operation must not be represented as organic to
2 any buyer, must not be identified or represented as an
3 organic ingredient in any product processed by others.

4 There's been enormous confusion over this.
5 People stop at 205.101, realizing that they're exempt and
6 they don't go any further and they don't realize that if
7 they're in the middle of a chain of custody, that they've
8 got to be certified.

9 I've had a lot of discussions with people and
10 I'm just -- it would be really nice if there was a
11 reference to 310 in 101 so that people wouldn't just stop
12 there, that they would understand that even if they are
13 only receiving goods and not processing them in any way
14 and shipping them out in the same package and labeling
15 that they came in, that they still have to be certified.

16 Lastly, I just wanted to finish up by thanking
17 you guys. In a way, this is to echo Diane and I thought
18 of it all on my own, but I want you to realize that there
19 is a lot that is positive and a lot of good that has
20 happened.

21 This has been a tremendous undertaking and
22 generally it has gone pretty glitch-free. Thank you for
23 the rule that some of you had a part in making. Thank you
24 for the question and answer portion on the web, that's

1 very helpful. Thank you for all the kind words and
2 encouragement that you give back to us certifiers. Thank
3 you for the positive answers that we have gotten.

4 CHAIRPERSON CARTER: Time.

5 MR. KENNEDY: Basically, thanks.

6 CHAIRPERSON CARTER: Just a second, Janning.
7 Are there any questions? I was just going to say the
8 Board did, last year, have discussion on the honey
9 standards. Are you familiar with those at all?

10 MR. KENNEDY: I haven't seen them, no.

11 MR. WILLIAMS: Can I just follow up? We had an
12 agriculture task force, had several drafts posted for
13 public comment, did a final report, approved by the Board,
14 but it didn't turn into a new rule. That would have been
15 the effect, because there really aren't sufficient to
16 certify to standards.

17 But those have been created and they have been
18 sent in to the Department. But I can get them to you, but
19 I don't know the status of them really, for more than just
20 production guidance.

21 MR. KENNEDY: I appreciate that and thank you, I
22 would like to see them. I guess my message is that we
23 need them.

24 CHAIRPERSON CARTER: Kim, Nancy and then Rick.

1 MS. BURTON: I just wanted to comment on the
2 materials. The tartaric acid, the Technical Committee did
3 submit a correction for that. It was on the first
4 proposed rule. Somehow it got omitted on the National
5 List. I just sent it again to the NOP Office, because I
6 have your winery people calling me, asking me to write
7 them something, so we are aware of that and hopefully it
8 will get --

9 MR. KENNEDY: We are trying to operate under the
10 squeaky wheel premise.

11 MS. BURTON: Well, keep going.

12 MR. WILLIAMS: The --

13 CHAIRPERSON CARTER: Nancy is first in line.

14 MS. OSTIGUY: Go ahead, Rick.

15 MR. WILLIAMS: The issue on hops, I believe it's
16 New Zealand that just got recognized as Option 2 and that
17 happened just a couple days ago. So your hops problem
18 just went away.

19 MR. KENNEDY: You just made my day.

20 MS. BURTON: What does Option 2 mean?

21 MR. WILLIAMS: That's where we've decided that
22 their accreditation process is equivalent to ours and that
23 they are qualified to certify that -- that the people that
24 they accredit are qualified to certify through the

1 National Organic Standards.

2 MR. KENNEDY: I can tell you I know personally
3 of four operations that are going to be ecstatic with that
4 information. Thank you so much.

5 MR. WILLIAMS: I will remind you that they have
6 to be certified to produce to the NOP, but the problem is
7 going away.

8 MR. KENNEDY: Great. Thank you.

9 CHAIRPERSON CARTER: Nancy --

10 MR. WILLIAMS: One other thing. On honey, we
11 put out a policy that it's our opinion that the existing
12 standards adequately cover honey. If your certifying
13 agent is having a problem, they need to contact us so that
14 we can talk them through it.

15 We've been working on a document that addresses
16 all the issues related to honey certification and how you
17 can find them within the NOP and we expect to be putting
18 that out soon. It was created as we were preparing for
19 the EU equivalencies, so the in NOP's position, the
20 standards are adequate for certifying honey and we'll be
21 providing that additional guidance relatively soon.

22 MR. KENNEDY: Is that on the web? Is that
23 information on the web?

24 MR. WILLIAMS: The Policy Statement that covers

1 honey has been on the web since early May.

2 MR. KENNEDY: Okay.

3 CHAIRPERSON CARTER: Nancy -- Rose -- Janning,
4 you're not done yet, we've got Rose and then Owusu.

5 MS. KOENIG: I guess it's more of a question to
6 Rick on the honey, and I guess that would also include
7 mushroom standards where we made recommendations, you're
8 saying that the existing standards with no additions?
9 Because I know like in the honey there were parameters in
10 terms of distance, you know, how many operations could be
11 within a certain mile radius of a hive. Those details are
12 not in the existing rule.

13 So you're saying the rule as in livestock
14 production would cover honey and then crop production
15 would cover mushrooms?

16 MR. WILLIAMS: Yes. That's exactly what we're
17 saying. And if you look at your own recommendations on
18 mushrooms, there is only one item in that whole list that
19 you can't find by reading the crop standards.

20 MS. OSTIGUY: I can understand mushrooms
21 probably a little more than -- where does access to
22 pasture come in with honey, I mean with bees?

23 MR. WILLIAMS: Rather than debating the issue
24 now, I think what you need to understand is that we have

1 said that apiculture and honey production are covered and
2 that we will be providing that guidance document. It's in
3 draft form and we will be providing it and that will be
4 what you go by.

5 The regulations are the regulations as they are
6 now and we're not changing them, at least for the
7 foreseeable future.

8 CHAIRPERSON CARTER: Owusu?

9 MR. BANDELE: Yes. Rick, as a follow up then,
10 anything that you're saying is covered, then tomorrow the
11 certifiers in California can deem that honey as organic
12 without the guidance document?

13 MR. WILLIAMS: They can take the regulations as
14 they exist today and certify that operation to those
15 standards.

16 MR. KENNEDY: That's good news. CCOF doesn't
17 certify the honey and it's dependent on another
18 certification agent and it's just that the honey producer
19 stopped selling as organic because he was --

20 MR. WILLIAMS: Well, that was a businessman's
21 decision by the honey producer.

22 MR. KENNEDY: Yes, based on --

23 MR. WILLIAMS: The bottom line is that we've had
24 a Policy Statement out since May saying that honey is

1 covered under the standards as they exist today.

2 MR. KENNEDY: Thank you.

3 CHAIRPERSON CARTER: Barbara, did you want to
4 comment on that?

5 MS. ROBINSON: Yes.

6 CHAIRPERSON CARTER: Did I say something to tick
7 you off or something?

8 MS. ROBINSON: Why?

9 CHAIRPERSON CARTER: You're not sitting up here
10 today.

11 MS. ROBINSON: No, no. I just didn't want to
12 interrupt the conversation.

13 CHAIRPERSON CARTER: Okay.

14 MS. ROBINSON: To follow up on what Rick is
15 saying, this doesn't mean that we will never have more
16 specific standards in the rule to address things like
17 mushrooms or honey. But what we felt is that it would be
18 better to let commerce continue now, we'll watch how the
19 markets work, we'll see what people submit to us, but
20 since we're not apiculture experts and mushroom experts,
21 we aren't going to sit there -- we've read what the Board
22 has done and we've looked at what is in the rule and we
23 thought this will work, this can mesh. People can look at
24 all of this and make it work.

1 Now, if people want to submit more specific
2 standards to us, you know, because we all know how long
3 that takes, we're going to look at those. It doesn't mean
4 this is a closed door, it's just let's keep things rolling
5 now.

6 CHAIRPERSON CARTER: All right. Nancy?

7 MS. OSTIGUY: Okay. I finally decided I do have
8 to say something. The definition of livestock: "Any
9 cattle, sheep, goats, swine, poultry or equine animal used
10 for food or in production of food, fiber, feed or other
11 agricultural-based consumer products, wild or domesticated
12 game or other non-plant life, except such term shall not
13 include aquatic animals or bees for the production of
14 food, fiber, feed or other agricultural-based consumer
15 products."

16 MR. WILLIAMS: And we have previously stated
17 that that is a technical correction that will be done, so
18 that exclusion is coming out of the definition.

19 MS. OSTIGUY: Okay.

20 MR. WILLIAMS: The definition in the Act covers
21 those, the definition in the regs violates the Act. It's
22 a technical correction that has to be done.

23 MS. OSTIGUY: It's just that I was reading --

24 MR. WILLIAMS: No, honestly, I understand --

1 MS. OSTIGUY: You indicated to go back to the
2 definition and I was looking at the definition.

3 MR. WILLIAMS: I understand, but it is a
4 technical correction that has to be done.

5 MS. OSTIGUY: Speaking to apiculture in general,
6 it's going to be a big challenge to have organic honey at
7 all.

8 MR. WILLIAMS: We didn't say that there is going
9 to be a lot of it. We said you can certify to it.

10 MS. OSTIGUY: Yes. I realize that, but I'm just
11 making a statement.

12 MR. WILLIAMS: There's a difference between
13 being able to certify to it and having lots of people
14 certified to do it.

15 CHAIRPERSON CARTER: Okay.

16 MS. GOLDBURG: Can I ask one more question?

17 CHAIRPERSON CARTER: Yes.

18 MS. GOLDBURG: Richard, just one more question.
19 If you're taking bees out of the rule as a technical
20 correction, in other words including them in the
21 definition of livestock, are you also doing that for
22 aquatic species?

23 MR. WILLIAMS: Yes.

24 MS. GOODMAN: So --

1 MR. WILLIAMS: That's also covered in the May
2 Statement.

3 CHAIRPERSON CARTER: Other comments?

4 (No response.)

5 CHAIRPERSON CARTER: Then we have Jack Jenkins,
6 followed by Dan Leiterman.

7 MR. JENKINS: Good morning. I'm Jack Jenkins,
8 I'm the general manager of Pacific Biocontrol. We're the
9 makers of the twist tie formulation we talked about
10 somewhat yesterday and we're the suppliers of that product
11 here in the United States. I'm located in Phoenix,
12 Arizona.

13 First of all, I guess I'd like to apologize, I'm
14 still on Phoenix time, so I'm a little -- I didn't get up
15 until about 15 minutes ago, but I appreciate the
16 opportunity to address the NOSB and the national Organics
17 Program people.

18 I also wanted to apologize, yesterday I heard
19 some comments about some producers asking the same
20 question over and over and over again, I think Barbara
21 Robinson said that. We're guilty of that, certainly.
22 We've asked the same question I know a number of times.
23 Sometimes we just don't understand the answer, sometimes
24 we can't believe the answer. We probably will ask the

1 same question again.

2 Also, Mr. Mathews questioned the origin of my
3 home planet yesterday because I got into this game so
4 late. We only heard about this problem from our
5 customers, our clients, our organic clients about two
6 years ago and we couldn't believe that mating disruption
7 could be effectively removed from organic production.

8 I've been working with mating disruption for
9 about 25 years and I've always considered them so benign,
10 so non-toxic, we're not even killing the insect that we're
11 trying to control, so we just couldn't believe it, but we
12 do now and we have submitted petitions to you all for
13 acceptance of our inert materials.

14 I just wanted to stand up on behalf of our
15 clients, our organic producers and consumers and give you
16 my appreciation for reviewing these petitions and anything
17 you can do to maintain the use of mating disruption.
18 Thank you.

19 CHAIRPERSON CARTER: Thank you. Questions?

20 MS. BURTON: Are you staying throughout the day,
21 if we have questions for you when we review those
22 materials?

23 MR. JENKINS: Yes. I'll be here until -- until.

24 MS. BURTON: Until the end?

1 MR. JENKINS: Until the bitter end.

2 CHAIRPERSON CARTER: Rick?

3 MR. WILLIAMS: It sounds like it wasn't
4 questioning your home planet for you, because you
5 mentioned that you've been working on this for two years.
6 I was referring to the ones that were calling me this
7 past week saying very angrily that we've never heard about
8 this thing.

9 MR. JENKINS: Thank you.

10 CHAIRPERSON CARTER: Other comments or
11 questions?

12 (No response.)

13 CHAIRPERSON CARTER: All right. Dan Leiterman,
14 followed by Uruashi Ranga. Excuse me, I'm doing my best.

15 MR. LEITERMAN: Good morning. I'm Dan
16 Leiterman, I'm from Crystal Creek Company and my topic is
17 the minor non-compliance, addressing of that.

18 To start with, I want to thank this Board for
19 the massive body of work that they've contributed to
20 livestock health in the last few months with your voting
21 and decisions. I want to preface this concern I've got to
22 help you focus, address the magnitude of what you've done
23 and the impact of my concern.

24 What you've done with your voting, as far as

1 livestock health is addressed in an enumerable number of
2 areas for livestock and the ability to produce quality
3 foods. When it gets to milk quality, every day our
4 organization has to address mastitis, high somatic cell
5 counts, diseased animals, reproduction. We get involved
6 with uterine infections, ovary function, egg deposit.

7 In the disease area, we're dealing with
8 pneumonia, surgeries, milk fevers, sketoleses, parasites,
9 pink eye, fly control, lice and mange, shipping fever. We
10 deal with a lot of calf issues, calf scours, calf
11 pneumonia, respiratory are huge issues.

12 Your voting has opened up the door and allowed
13 us to address over 300 different pathogens that are
14 significant in livestock health. Not only with pathogens,
15 but with toxemias that we deal with on a daily basis,
16 microtoxin, pathogen originated toxemias, parasites. We
17 deal with pain and on and on and on. So I want to thank
18 you for that. It's allowing producers to really seriously
19 address the issue of producing clean, quality food with
20 safe, well-kept livestock that you can be proud of.

21 The concern that I've got is that tomorrow when
22 I go to work I'm going to get a lot of calls, we handle
23 dozens of calls every day from producers that have
24 questions on how to address this to be compliant with

1 organic rules and I would like to be able to use these
2 tools.

3 I'm informed by some of the certifiers that I
4 deal with that as it stands right now, despite the fact
5 that this Board as voted to allow a lot of these
6 ingredients for use, there's a lot of questions on the
7 certifiers' part as to whether they can legally allow the
8 use. We need some clarification on this.

9 It has a huge impact on dairy industry, beef and
10 meat production and I'm facing it tomorrow. When I get
11 these calls, I don't know what to tell them. I'll send
12 them back to their certifier and I at this point believe
13 that their certifier, seeing that the ingredients may have
14 been voted on favorably by the NOSB, may not be through
15 the process enough yet to be allowed for use. So we
16 really, really need some clarification on that.

17 Our certifiers are understandably taking that
18 position and I'm hoping that you can help us with that,
19 because tomorrow I don't know what to do. Thank you.

20 CHAIRPERSON CARTER: Questions?

21 (No response.)

22 CHAIRPERSON CARTER: Thank you. Okay, Uruashi,
23 then followed by Tina Ellor.

24 MS. RANGA: Hi. I'm Uruaski Ranga, I'm from

1 Consumers Union, a non-profit publisher of Consumer
2 Reports Magazine. I'm a toxicologist by training, I also
3 happened to major in chemistry, so I'm going to put on my
4 chemistry hat a little bit later. I also direct our eco
5 labels website at Consumers Union, which reviews all
6 environmental labels on food, wood, personal hygiene
7 products and we're getting into household cleaners now.

8 So I come with that set of skills and I come
9 from Consumers Union. The first thing we'd like to do is
10 the thank you all for all of the hard work over the last
11 several years. It's an amazing moment, we're very excited
12 about tomorrow, we're very excited about the standard and
13 so we thank all of you very much for all of your work.

14 I just want to talk a little bit about Consumers
15 Union. We are free from any commercial interests. We are
16 here today as a completely economically disinterested
17 party whose sole goal is to help consumers make more
18 informed choices about their purchases. We've been doing
19 this for over 66 years and we are helping today over 5
20 million consumers make better informed purchasing
21 decisions.

22 In our opinion, the integrity of the organic
23 label resides in your hands. Understandably, the organic
24 standards have received much attention over the last few

1 weeks, we're about to implement this thing tomorrow, so
2 there's been a lot of press and a lot of publicity over it
3 and with that, you're going to see the good and the bad
4 come out of that.

5 We have been active in publicizing information
6 about this label to consumers and we will continue to do
7 that after tomorrow.

8 Just to give a little historical perspective,
9 and it's nothing new to any of you, but I think it's a
10 good reminder to go back. It was the will of the people
11 that was heard by Congress in 1990 that ended up in the
12 Organic Food Production Act and that was the mandate
13 issued by the will of the people.

14 At that time, USDA was charged by Congress to
15 support the will of the people to purchase organic
16 products under a consistent and independent label program.
17 Most integral to that process is this expert advisory
18 committee whose existence is there to help protect these
19 standards, review materials and advise the USDA, which
20 could not do the job without you. That's what the OFPA,
21 Congress and the will of the people mandate.

22 Consumers have rewarded this process by paying a
23 premium on organic products and are entitled to get what
24 they expect. According to a recent USDA marketing report,

1 sales of organic are growing steadily and consumers should
2 be getting what they pay for and what they expect.

3 This standard should not be undermined by
4 economic interests. For example, poultry should have
5 access to the outdoors. We have information about the
6 petitions to the USDA and the pressure that you are under
7 by those with economic interests to prevent access to the
8 outdoors for poultry.

9 In addition, there was similar pressure to
10 reduce the feed, instead of feeding animals 100 percent
11 organic feed, it was to be lower than that.

12 These kinds of exemptions and waivers would
13 undermine the integrity of the organic label and it also
14 undermines when you issue exemptions for true emergencies.
15 By issuing these kinds of exemptions and waivers, it
16 would poke holes in the standards, again undermining the
17 will of the people who asked 12 years ago that all poultry
18 have access to the outdoors and be fed 100 percent organic
19 feed.

20 We still look forward to the official
21 announcement from USDA and the NOP on their decisions
22 about these issues and also on the various recommendations
23 of the NOSB.

24 One minute, huh? Okay, then I think I'm going

1 to jump to the review of processing aids. The NOSB has
2 been charged with the authority to review most major
3 materials in organic production. Those who are trying to
4 circumvent this materials review process are not following
5 the due process of this standard in good faith.

6 I'd like to now put on my chemistry hat for
7 maybe 20 seconds and talk ion exchange. First of all, it
8 doesn't matter what FDA classifies it as right now or what
9 they're going to reclassify it as. They do have guidance
10 on what a secondary additive is, I have FDA documentation
11 for you, to submit for your review.

12 But why should you review ion exchange? Well,
13 first of all, how are these resins made? Styrene divinyl
14 (phonetic) benzene, at least one explanation from the FDA
15 is that it's poured onto to column and enzyme cocktail.
16 What's the source of that enzyme? Is it made with
17 prohibited process inorganic production?

18 The question here isn't whether it's safe, the
19 question is is that what the consumers expect their
20 organic food to be run over before it's put into the
21 bottle and packaged.

22 So you have many questions. Not only that,
23 these resins have a finite lifetime. That's time. Okay,
24 thank you.

1 CHAIRPERSON CARTER: Finish your thought.

2 MR. RIDDLE: Yes, I was just going to ask if she
3 could do that.

4 MS. RANGA: Okay. Can I just finish my thought
5 on my little point about ion exchange?

6 CHAIRPERSON CARTER: Yes.

7 MS. RANGA: Fine. What is the lifetime of the
8 columns, what's the effect of disposing styrene divinyl
9 benzene in environment? There is a mechanical breakdown
10 of these columns, but chlorine also acts to break down
11 these products and what are the chemical byproducts of
12 that?

13 Charging columns with acids and bases also needs
14 to be reviewed by this committee. Sodium hydroxide,
15 sulfuric acid presumably need to be from natural sources
16 and the purity of those materials needs to be assessed.

17 CHAIRPERSON CARTER: Okay. Goldie?

18 MS. CAUGHLIN: I would like to ask you, for my
19 benefit, to complete your sentence or to continue with --

20 CHAIRPERSON CARTER: Goldie's question is what's
21 on your mind.

22 MS. CAUGHLIN: And secondly, do you have this in
23 writing, as part of the record?

24 MS. RANGA: I do. I have some information from

1 the Office of Premarketing Approval from the FDA here. I
2 also have --

3 MS. CAUGHLIN: To cut to the chase, how do you
4 consider ion exchange? Is it chemical, is it --

5 MS. RANGA: Ion exchange is a processing aid.
6 There are various resins that are used within ion exchange
7 and whether it's chemical or physical, you have resins
8 that need to be either synthesized or derived from natural
9 materials and --

10 MS. CAUGHLIN: So the resins for you are the
11 main concern?

12 MS. RANGA: The resins, as well as how do you
13 charge the column, what kind of acids and bases are being
14 used to charge that column and the disposal of those
15 columns.

16 Water softeners, as it was brought up before,
17 also use ion exchange, that's fine. In a common
18 household, you replace that resin every five to ten years.
19 I don't know what it would be on an industrial scale, but
20 again, that's why you guys, the experts, are here, to
21 review that kind of information.

22 CHAIRPERSON CARTER: Okay. Other questions or
23 comments?

24 (No response.)

1 CHAIRPERSON CARTER: Okay, thanks.

2 MS. KOENIG: I did have one question.

3 CHAIRPERSON CARTER: Yes.

4 MS. KOENIG: I guess in the ideal world -- I
5 guess what is your philosophical viewpoint on some of this
6 stuff? We've been given a charge, that's true, as a
7 material process, but the other constraint is that we work
8 and we operate within limited economic resources.

9 We've been charged as a Board to set a policy
10 that we all can live with. Again, in an ideal world we
11 would look at everything. There certainly may be things
12 that we're not going to be able to look at within that
13 policy. What is your philosophical view? What is your
14 recommendation, because it's easy to say you need to look
15 at A, B, C, D and everything out there.

16 MS. RANGA: Sure. You actually have this
17 expertise. Nancy is a toxicologist and has a good
18 understanding of chemistry. When you're talking about
19 reviewing salts and the derivation of them and basis, like
20 sodium hydroxide, styrene divinyl benzene is a huge,
21 complex synthetic, hard chemical. That's a pretty major
22 synthetic and there are other resins that are made or
23 based on formaldehyde, for example.

24 I just went on the internet last week to do a

1 search and it poured out with a ton of information on
2 this. It makes me think I can't make sense of all of it,
3 consumers can't make sense of all of it.

4 MS. KOENIG: Yes, but the other thing, though,
5 if you look at -- believe me, we spent some time looking
6 at web sites on packaging. Many of the same things or
7 maybe worse are in the packages that these things are
8 wrapped in.

9 MS. RANGA: You're right.

10 MS. KOENIG: After reading those things, I think
11 I don't want to eat another processed food, but the
12 environment we live in is people want packaged and
13 processed goods, or else we wouldn't be sitting here.

14 MS. RANGA: I could see drawing a line at
15 packaging, but when you're talking about resins inside ion
16 exchange columns, that's a different thing and FDA does
17 talk about ion exchange columns, specifically actually for
18 high fructose corn syrup purification and what the
19 estimated daily intake is and what the considerations are
20 for what is considered to be safe.

21 But you have a charge even beyond what is just
22 considered to be safe. You have a charge to say do
23 consumers want this thing run over. Asbestos is immobile
24 in a solid phase, consumers don't want their food run over

1 an asbestos column in order to be purified and really, you
2 guys need to be the ones to ensure that those things are
3 at least reviewed. That's my point.

4 CHAIRPERSON CARTER: Okay. I know there was a
5 hand up, but this is public comment and everybody gets
6 their five minutes and we're not going to have public
7 debate.

8 MR. WILLIAMS: She did ask for an answer on a
9 couple of things.

10 CHAIRPERSON CARTER: Okay. Rick, go ahead.

11 MR. WILLIAMS: There was a request from this
12 presenter for answers on a couple of things, I'm trying to
13 remember what they were right now. Barbara has got them,
14 okay.

15 CHAIRPERSON CARTER: Barbara, go ahead.

16 MR. WILLIAMS: I knew you moved over for some
17 reason.

18 MS. ROBINSON: I almost forgot too. On the
19 question of the presenter thinks that the decision about
20 what we're going to do about petitions for waivers for
21 access to the outdoors and 100 percent organic feed,
22 actually, we haven't really been faced with petitions.

23 However, we have no intention of changing the
24 rules. Access to the outdoors is part of the rule, as is

1 100 percent feed requirement for livestock.

2 The industry that you are talking about has
3 asked about a waiver for access to the outdoors for
4 reasons of health or safety. This is a marketing program,
5 it's not a health and safety program, so we have told them
6 that we have no jurisdiction over health and safety, as
7 far as avian influence or Newcastle Disease and that sort
8 of thing.

9 They're free to make their case, and I'm sure
10 they will, to health and safety agencies, because the
11 National Organic Rule must also abide by existing Health
12 and Safety Regulations, but as far as we're concerned, the
13 rule stays as-is. We have no intention of granting
14 waivers on those two points.

15 MR. WILLIAMS: And that's not a new position.
16 We've been consistently saying that.

17 MS. RANGA: I'm very pleased to hear that, but
18 the fact of the matter is that you all, on June 10 I
19 believe, it's posted on the website, issued a study for
20 commercial availability of feed. We don't know what the
21 results of those studies are, we don't know if that had an
22 influence on what your decision is going to be or not in
23 order to issue that waiver.

24 It's important that public disclosure is

1 maintained for this and for a number of different things,
2 but we need to know that. It's great that you've decided
3 that, but the public needs to know that.

4 MR. WILLIAMS: The problem is that we have
5 notified the public. The problem that derives from --

6 MS. RANGA: I haven't seen that on the website.

7 MR. WILLIAMS: But what you're failing to
8 understand is that if there's nothing new to put up, we
9 can't put up anything new. The study was mandated by
10 Congress, we've let out the contracts to do the study.
11 Until the study is done, there's nothing to say.

12 That's where we are. We have been mandated by
13 Congress to do the study, we have alerted the world that
14 we've been mandated to do this study. We have contracted
15 to have the study done and when the study is done, then we
16 can provide the world with more information as to what the
17 outcome was.

18 MS. RANGA: Thank you. I'll look forward to
19 that.

20 MR. WILLIAMS: What will be the outcome of that?
21 We have no idea, but our position is that when the
22 information is available, we'll make the information
23 available.

24 The other issue, as Barbara has said, is that

1 the regs are the regs. We're going to enforce the regs.

2 MS. RANGA: We're glad to hear it.

3 CHAIRPERSON CARTER: Barbara, you had another
4 point on that?

5 MS. ROBINSON: Uruashi, this is not about
6 commercial availability of feed. The study that Congress
7 asked us to do is simply a statement in the Farm Bill, it
8 wasn't even in the Farm Bill per se, it's in manager's
9 language, manager's report language, that says to the
10 Secretary that she shall ensure, she shall undertake any
11 studies, actions, research, whatever, to assure that there
12 are no artificial or undue barriers to producers who want
13 to enter into organic agriculture.

14 So we decided to go ahead and undertake four
15 studies around the country, with land grant universities,
16 to survey producers and certifying agents to find out what
17 their intended acreage is for feed grains, in this case,
18 because we understand the problems out there, for 2002,
19 2003 and 2004.

20 We also have a study by ERS that was just
21 completed, the Economic Research Service and the USDA was
22 just completed. This survey takes us and gives us data up
23 through 2001. All the data that we have seen so far, and
24 I have not received the data from the four studies that

1 we've contracted, but all the data that we've seen so far
2 suggests that yes indeed the people who are writing about
3 growth in this industry aren't lying, everything is still
4 increasing at double digits, there's a phenomenal growth
5 in acreage, there's a phenomenal growth in livestock
6 production that's going to be certified as organic.

7 But it has nothing to do with commercial
8 availability and you need to understand that, because
9 commercial availability isn't a trap door here and that's
10 what a lot of people are under the impression, that if
11 it's not commercially available, you're going to let me
12 out. Commercial availability has nothing to do with feed
13 grains.

14 MS. RANGA: I understand that and I'm sorry if I
15 made the suggestion that it was commercial availability
16 that led to that, but the question of feeding animals 100
17 percent organic feed is in question and it's a valid
18 question and that's why you've commissioned these studies,
19 to find out if the question is valid or not, whether or
20 not it is indeed available.

21 It's semantics what you call it and we look
22 forward to hearing what the answers are to those studies.

23 CHAIRPERSON CARTER: Rick and then Jim.

24 MR. WILLIAMS: Oh, okay.

1 CHAIRPERSON CARTER: Okay, Jim?

2 MR. RIDDLE: Yes. Just related to this, there's
3 just something I wanted people to be aware of and that is
4 in Minnesota the NRCS has offered EQIP, Environmental
5 Quality Incentives Payments, to convert new land to
6 organic and had a sign up period last year or this year,
7 still this year.

8 They had 205 applications, about 58,00 acres
9 applied and over 35,000 new acres coming into organic
10 production. A lot of that is going to be feed grains.
11 They're getting \$50 an acre, up to 250 acres a year, to
12 convert new land, a total of \$1.65 million in payments
13 approved.

14 MS. RANGA: Great.

15 MR. RIDDLE: I think we've got to be building
16 the base, the infrastructure and this --

17 MS. RANGA: Absolutely.

18 MR. RIDDLE: But at the same time, we've got to
19 have a market for all of this, too. It's got to go hand-
20 in-hand. But this model can be used by other states' NRCS
21 at their own discretion. I just wanted people to be aware
22 of that and if they want more information, I can get them
23 in touch with the State Conservationist's Office.

24 MS. RANGA: Thank you.

1 CHAIRPERSON CARTER: Okay. Let's move on then.
2 Tim Ellor, followed by Thomas Hardington.

3 MR. WILLIAMS: It's Harding.

4 CHAIRPERSON CARTER: Excuse me.

5 MR. WILLIAMS: That's his proxy.

6 MS. ELLOR: Hi, I'm Tina Ellor with lousy
7 handwriting, sorry about that.

8 CHAIRPERSON CARTER: Oh, Tina. Hi, Tina.

9 MS. ELLOR: Good morning.

10 CHAIRPERSON CARTER: It looks like Tim from
11 here.

12 MS. ELLOR: I'm actually reading a comment from
13 Leslie Zook, Executive Director of Pennsylvania Certified
14 Organic. She wrote far more than I can get through in
15 five minutes, so I've provided everybody a hard copy of
16 it. I'll be limiting the amount of questions I can
17 answer, because dairy is not my thing, mushrooms are.

18 In addition to TCO, several other northeastern
19 certification agencies and producers support this
20 position, including Maine Organic Farming and Gardening
21 Association, NOFA Vermont, NOFA New York, NOFA New Jersey
22 and Maryland Department of Agriculture and a late addition
23 this morning, Northeast Organic Dairy Producers
24 Association.

1 TCO supports the livestock community's
2 recommendation as it stands now, who knows what happened
3 last night, don't know yet, of origin of livestock and
4 believes it is consistent with the final rule. We believe
5 that requiring all dairy animals, including purchase
6 replacements, to be managed organically from the last
7 third of gestation is the fairest and most logical
8 interpretation and we comment the committee for taking
9 this position.

10 This requirement will not be a heavy burden on
11 TCO's 90 some organic producers, as TCO and AOS standards
12 have always contained that requirement. However, we have
13 permitted exceptions in certain documented situations and
14 we realize that other organic producers will have to make
15 changes in order to meet the last third requirement.

16 Permitting producers and certifiers to work
17 within their in existent plans to come into compliance
18 would be a reasonable and fair means of keeping non-
19 compliant operations in business without discriminating
20 against operators who already meet the last third
21 requirement. Breath.

22 We suggest that language to that effect be added
23 to the NOSB's recommendation as follows: "It is
24 anticipated that producers and certification agents will

1 work within their organic system plans to meet this
2 requirement within a reasonable time, depending on the
3 constraints of the individual certified operation. The
4 Board may wish to give guidance on the reasonable time
5 allowed, but we suggest it to be a minimum of two years.

6 "The livestock community and organic community
7 have struggled with the language of the Origin of
8 Livestock section of the Rule for 18 months now. This
9 recommendation is the result of the joint effort of many
10 components of the organic community, producers,
11 certification agencies, large and small operations and
12 regional representatives.

13 "In directing this recommendation, the committee
14 considered several premises. Premise one. Everyone
15 concerned, the USDA as well as producers, consumers and
16 certification agents, would be best served by a simple,
17 rational and unified interpretation of the Rule.

18 "Premise two. It is in the best interest of
19 everyone, the producers that must abide by this Rule and
20 the USDA and certification agencies that are charged with
21 the responsibility of enforcing it, that we adopt a fair,
22 just and non-discriminatory interpretation.

23 "Premise three. The interpretation should bit
24 in with current organic practices. Organic dairy farmers

1 must be able to meet the requirements, with some changes
2 perhaps. It should not crush the industry, but should
3 allow it to continue to grow.

4 "Premise four. In addition to being simple,
5 fair and attainable, this interpretation should be legally
6 justifiable without a real change.

7 "We believe that the drafters of the Rule also
8 considered these premises. That is, their goal was to
9 write a regulation that would be rational, non-
10 discriminatory, consistent with industry practices and
11 legally justifiable, enforceable and defensible under the
12 Act.

13 "The NOSB Livestock Committee interpretation of
14 Section 205.236 as requiring that once a dairy herd is
15 certified, regardless of the method of getting there, all
16 animals shall be under organic management from the last
17 third of gestation is consistent with the previously
18 stated premises.

19 "In the course of discussing this issue, many
20 questions have been asked that I would like to address."
21 Not me, Leslie.

22 "One of the questions asked has been why does
23 the Exception 205.236(a)(2) state that milk or milk
24 products must be from animals that have been under

1 continuous management beginning no later than one year
2 prior to production? This language is included in the
3 Rule to comply with OFBA.

4 "It is a minimum requirement. Without this
5 clause, all herds would have had to start by raising all
6 their animals organically from the last third of
7 gestation. This would have been prohibitive and the Act
8 recognized that.

9 "Also, without the one year clause, there could
10 never have been a herd conversion allowance. It does not
11 mean that replacement animals can be purchased from
12 conventional sources and managed organically for one year
13 before producing organic milk. The only part of the Rule
14 that deals with replacements is 205.236(a)(2)(iii), which
15 requires organic management from the last third of
16 gestation. The preamble supports this.

17 "Another question we have asked, does the
18 requirement that replacement animals be under organic
19 management from the last third of gestation only apply to
20 dairy herds that go through conversion in compliance with
21 205.236(a)(2)(iii)? The answer is no.

22 "The language in (iii) clarifies that the clause
23 applies to all dairy herds, no matter what route they
24 follow to become certified. The writers wanted to

1 emphasize that the conversion could not go on
2 indefinitely. This is supported by the preamble.

3 "The writers probably assume that most new
4 producers should opt to take advantage of the conversion
5 exception. Industry practice supports this. It would
6 have made no sense for the writers of the rule to have
7 included (iii) unless they meant for it to apply to all
8 dairy producers.

9 "There would have been no reason for them to
10 have intentionally created an unfair and discriminatory
11 burden forever on producers who transition their herd and
12 have their land in compliance with the conversion
13 allowance.

14 "The writers probably did not anticipate that
15 the one year language in (a) (2) could be construed to
16 allow non-organic replacements. Otherwise, they would
17 have crafted the language differently, or at least dealt
18 with in the lengthy and detailed preamble. The absence of
19 any specific reference to purchasing non-organic heifers
20 after certification means that it not only wasn't the
21 intent, the issue wasn't even anticipated."

22 MR. RIDDLE: Time.

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

24 CHAIRPERSON CARTER: Questions?

1 (No response.)

2 CHAIRPERSON CARTER: Okay. Thanks, Tina. Tom
3 Harding, followed by Kelly Shea.

4 MR. HARDING: Good morning, Tom Harding,
5 AgriSystems International. As you've just heard, the
6 dairy replacement issue continues to be confusing to
7 everyone. As I spoke yesterday, as I did at the last
8 Board meeting and Board meetings before that, this issue
9 has to be very clear.

10 Kelly Shea is going to follow me and she's going
11 to put a proposal on the table and we support that
12 proposal in principle, but I want to be very clear that we
13 are very interested in where the consumer's perception is
14 in this whole issue and we're under the impression that
15 they mean no antibiotics. But we need to have a level
16 playing field. Whatever that level playing field will be,
17 we all need to be playing under those same rules.

18 The issue of materials approved by the NOSB, I
19 think it's very important that we have a public release
20 that these materials are in the pipeline and that they
21 will be dealt with under minor non-compliance. They will
22 be permitted to be used or not, but we need to be clear
23 about that, because we have very uncertain certifiers
24 already in this room and I think it's very important that

1 we be very clear once October 21 comes about.

2 The use of appropriate technology, i.e., ion
3 exchange, alter filtration, the treatment of CO₂ in stored
4 grains, the use of nitrogen as a spurge (phonetic) and in
5 packaging, the whole issue of packaging, I think we need
6 to take a very close look at that.

7 I want to remind you that half of the water that
8 we use today is treated with ion exchange. That water
9 goes into organic systems and organic products.

10 The other issue is how we're using them in whole
11 technical aspects made by the Consumers Union and I think
12 these are all really valid points, but I think I go to
13 where Rosie was with this issue, where do we draw the
14 line, when do we draw the line and how deep is this line
15 drawn.

16 I'm going to give part of my time to the folks
17 on ion exchange to address these issues, but not unlike
18 this issue of ion exchange, we have the issue of nitrogen
19 and how we use it in packaging, we have the issue of
20 stored grain treatment with CO₂. I remind you, there's a
21 lot of issues with natural materials that are on the list
22 that can be used in or on, but not on 100 percent product,
23 but they're used on 100 percent raw material. Let's be
24 clear.

1 The issue of interpretation of the gray areas, I
2 really respect what you guys are doing. I think we're too
3 damn hard on one another in this whole process. I really
4 believe that everybody on the NOSB, everybody at the
5 Department is trying their best to make a good Rule and to
6 interpret that good Rule.

7 My feeling, Richard, is that we should interpret
8 what the certifiers need to get out there clear about the
9 gray areas and the consumers and all the other people
10 calling in for a while should let us get to work on it. I
11 would suggest that we should draw a line and say we're
12 going to respond to the certifies so they can respond to
13 us in the industry who badly need that information and
14 then come out with a Policy Statement about it in writing.
15 That's my feeling.

16 The issue of dealing with minor non-compliances,
17 I think it's really critical that we define what a minor
18 non-compliance is and of course, what a major non-
19 compliance is, because already in the certifiers that I've
20 had the chance to see the documents come back on, it is
21 incredible the difference that we're seeing on what is and
22 what is not a minor non-compliance and this is a critical
23 issue.

24 The last point I want to say before I give my

1 time, the rest of my time, Jim, is the issue of
2 perfection. I don't think it's achievable. I think it's
3 a waste of time and I think it damn well is stupid for us
4 to approach it in this way and I think it's about time
5 that we let the public know that a lot of things that
6 we've been doing is not perfect and in fact, this Organic
7 Rule will never be perfect.

8 Draw the line so the public can decide what is
9 about organic food and what isn't about organic food and
10 know that we'll never reach the ultimate goal of utopia
11 and perfection.

12 I want to thank all of you for the work you've
13 done. I want you to stop being hard on yourselves and be
14 more patient and understanding, as you have been in many
15 cases, but we've got a long way to go yet. October 21
16 many people will take the credit, but a hell of a lot of
17 people stand behind it. Let's not give up on this battle.
18 I want to give Dick or Mark my time.

19 CHAIRPERSON CARTER: A minute 15 is what's left.

20 MR. ITZKOFF: This will be real quick. The
21 woman from Consumers Union said that ion exchange resin,
22 SDVB, was produced with an enzyme. The example she cites
23 is from an FDA 95 guidance document. The actual example
24 is where the same resin is used to support an enzyme

1 that's used for fructose conversion. That's not what
2 we're talking about. The enzyme does not produce the ion
3 exchange resin.

4 The FDA was looking at a different application
5 that really has nothing to do with ion exchange. They
6 were looking at it in an application where it supports an
7 enzyme. That's not what we've been talking about.

8 Also, it was a '95 document, before FUDAMA,
9 before Food Contact Substances were a legally identified
10 definition. That's all I wanted to say.

11 MS. BURTON: I have a comment.

12 CHAIRPERSON CARTER: Okay.

13 MS. BURTON: We keep referring back and forth to
14 ion exchange being used in water and that is very true,
15 but as we reviewed the activated carbon at the last
16 meeting, activated carbon is an ion exchange, so there's
17 lots of different forms of ion exchange. I just want to
18 put that on the record, that -- just that point. Thank
19 you.

20 CHAIRPERSON CARTER: Okay. Thank you. Kelly
21 Shea, followed by Mark Itzkoff and also just a reminder
22 that there is a sign up sheet out in the hallway if you
23 haven't signed up and want to give public comment. Kelly.

24 MS. SHEA: Good morning to everybody. You'll

1 remember when I stood before you in September, I was
2 representing the Organic Trade Association's Livestock
3 Committee. I had a lengthy document to present to you,
4 which was the most amazing thing that's come out of the
5 Livestock Committee in the three and a half years I've
6 been involved.

7 It was a unanimously supported document, which
8 is an extreme rarity in the OTA Livestock Committee. It
9 was not only a document composed of thoughts, opinions and
10 research from within the OTA, but outside the OTA in the
11 United States and overseas also.

12 When I left, George charged us with coming back
13 with some sort of a recommendation, so I stand before you
14 today representing not the Organic Trade Association's
15 Livestock Committee, but the Organic Trade Association as
16 a whole, with our recommendation on the issue of origin of
17 livestock. I gave Katherine a copy of the Board
18 yesterday, so I'm assuming that everyone got a copy of
19 this document, so I'll read it.

20 "The Organic Trade Association recommends a
21 definition of origin of livestock specifically for
22 production livestock, which are raised differently than
23 slaughter stock. Production animals are those that
24 provide wool, milk, et cetera, and will never be sold,

1 labeled or represented as organic meat.

2 "OTA recommends that during the last third of
3 gestation regulations for these production stock fully
4 incorporate the Rule and its requirement for 100 percent
5 organic feed and organic-compliant living conditions.

6 "For therapeutic reasons, in case of illness or
7 injury, production stock may be treated with medications
8 necessary for the animal's health and survival 12 months
9 prior to products produced by that production livestock
10 being sold, labeled or represented as organic. These
11 treatments must be recorded in the Organic Farm System
12 Management Plan and the entity's certifying agents must of
13 informed."

14 This is fully in keeping with OFPA, which
15 prohibits "growth promoters and hormones on such
16 livestock, whether implanted, ingested or injected,
17 including antibiotics and synthetic trace elements used to
18 stimulate growth or production of such livestock."

19 OFPA further says "Producers on such farm shall
20 not (a) use sub therapeutic doses of antibiotics; (b) use
21 synthetic internal pericectitis on a routine basis; or
22 (c) administer medication other than vaccinations in the
23 absence of illness."

24 OTA recommends that this definition be revisited

1 no later than October 21, 2007, choosing the five-year
2 sunset in the National List.

3 We were striving for a recommendation that would
4 not be a Rule change, that would be doable within the
5 parameters of OFPA and the Rule as written, recognizing
6 that philosophically speaking, the preamble talks about
7 where we want to be and in keeping with the philosophy of
8 organic, we're constantly trying to raise the bar.

9 I think we're probably the only industry around
10 that's constantly wanting things to be better and better
11 and better, stricter and stricter and stricter, getting to
12 that Eden we talk about all the time.

13 In the spirit of cooperation, the OTA recognizes
14 -- and it was very refreshing to see the navigation of the
15 NOSB Livestock Committee's position on this and in the
16 spirit of cooperation, the OTA is more than willing to
17 work with this Board and with the NOP to further refine
18 our recommendation and to work with the Board on any
19 recommendation that is in keeping with the OTA position
20 and we would be glad to go back and talk to our committee
21 some more and gather any more information that you might
22 need.

23 I'll add that in reading all the public comments
24 that you people received from producers across the United

1 States, it was interesting that every single comment said
2 we want to be there, but we're not there yet. There
3 wasn't a single comment that said we're there. Thank you.

4 CHAIRPERSON CARTER: Rick?

5 MR. WILLIAMS: Yes. Kelly, I think that the
6 transcript from yesterday will probably show that I
7 misspoke and I want to try and clarify that right now. It
8 was in reference to when I said that OTA's recommendation
9 and the Board's recommendations would have to be Rule
10 making.

11 I probably should have said that the NOSB's
12 recommendation appears to require Rule making and that I
13 would need to do is take the OTA recommendation to the
14 attorneys to get a legal interpretation as to whether or
15 not it could be done without a Rule making change.

16 MS. SHEA: Okay. And I'm sure -- Katherine has
17 indicated that she would be also willing to work with the
18 NOP on this issue, too, as we go forward.

19 MR. WILLIAMS: It's clearly something that we
20 have to float by the attorneys to see if they agree with
21 the same premise that you have made.

22 MS. SHEA: Thank you.

23 CHAIRPERSON CARTER: Jim.

24 MR. RIDDLE: I just want to be clear on what you

1 said. You're calling for a new definition of production
2 livestock, correct?

3 MS. SHEA: No. I believe that the definition of
4 production livestock has always existed. It was in OFPA,
5 the difference between slaughter stock were to be raised
6 and the way production livestock were to be raised were in
7 OFPA. It was also in the Revised Proposed Rule under
8 Origin of Livestock. There was Origin of Livestock for
9 poultry, breeder, slaughter, fiber-bearing and dairy.

10 When the Final Rule came out, it is my belief
11 that possibly an imperfect vision of what actually goes on
12 on farms across the United States was proposed and
13 incorporated into the Rule. The Origin of Livestock for
14 fiber-bearing animals was removed in the Final Rule.

15 I did not personally see public comment calling
16 for fiber-bearing animal standards to be removed between
17 the Revised Proposed Rule and the Final Rule.

18 MR. RIDDLE: I guess when I used the word
19 "definition" I was thinking of an actual written, tangible
20 definition, not something implied.

21 MS. SHEA: I think that's probably the fault of
22 us who are not lawyers or rule makers, trying to write
23 with that language. It's what the Board brought up
24 yesterday, we wish we had a definition of what all these

1 words meant in rule making.

2 I guess what we're trying to say is that last
3 third gestation for production livestock, be it dairy or
4 wool, alpaca type animals, since OFPA has always been a
5 different thing than what last third of gestation for an
6 animal to be slaughtered as organic meat is.

7 MR. RIDDLE: Yes, but the Rule clearly talks
8 about edible products when it says the producer of an
9 organic livestock operation must not sell, label or
10 represent as organic any animal or edible product derived
11 from any animal treated with antibiotics.

12 MS. SHEA: Right.

13 MR. RIDDLE: That's clearly in the Rule.

14 MS. SHEA: That's clearly in the Rule and that's
15 clearly in the section talking about how animals in an
16 organic production herd are to be treated. I believe that
17 if it was the intent of the Rule to visit animals from
18 birth on, it would have actually talked in there about
19 animals that come in through a conversion period or
20 animals that are purchased from an off farm source and
21 converted for 12 months or animals that come in through a
22 conversion period, because if we go with what you're
23 interpretation of 205.238(c)(1), I believe that's what
24 you're reading --

1 MR. RIDDLE: I just read it, I didn't interpret
2 it.

3 MS. SHEA: Then we wouldn't have whole herd
4 conversion or 12-month conversion and we do. I don't know
5 that we can interpret that to mean any animal that ever
6 becomes organic. I believe it's when you have a milking
7 cow, when you have an animal that's in a program to become
8 slaughter stock.

9 MR. RIDDLE: I understand your position. There
10 have been people who have testified, we just heard from
11 TCO that this is possible, it is practice in the industry
12 and yes, there are some who are not practicing it, but
13 there are many who are.

14 MS. SHEA: I think that what you heard from TCO,
15 which is in your public comments, they did send in a
16 public comment, Lisa McCoy from NOFA Vermont sent in a
17 public comment. They were also on the TCO. What they're
18 saying is that's where we want to get, we're not there
19 yet, because they are asking for three to four years
20 minimum to get there. That was also part of the comment
21 that Tina read for Leslie.

22 MR. RIDDLE: And my understanding of that
23 comment is they are there, but the entire industry as a
24 country is not there, so there's a recognition of the need

1 for some time to get there.

2 MS. SHEA: That may be a misconception. You may
3 have heard wrong.

4 CHAIRPERSON CARTER: Okay, let's move on.

5 MS. SHEA: Thanks.

6 CHAIRPERSON CARTER: Okay. Mark Itzkoff,
7 followed by Emily Brown Rosen.

8 MR. ITZKOFF: Mr. Chairman, I've already had a
9 substantial opportunity to address the Board, I'd like to
10 yield my time.

11 MR. MESH: Do you want me to take it?

12 CHAIRPERSON CARTER: You're slowing down, Marty.
13 You used to be a lot quicker. Okay, Emily Brown Rosen,
14 followed by Russell Libby, by proxy.

15 MR. RIDDLE: Are you only speaking for Russell
16 or for him and yourself?

17 MS. BROWN ROSEN: No, two separate things.

18 MR. RIDDLE: Okay, you have a total of ten
19 minutes.

20 MS. BROWN ROSEN: I just signed up separately,
21 they just happened to be one after another, two different
22 topics.

23 MR. RIDDLE: Okay.

24 MS. BROWN ROSEN: I may not use up my whole five

1 minutes on each one, we'll see. I'll take a deep breath
2 here. Good morning, I'm Emily Brown Rosen with Organic
3 Material Review Institute.

4 I'd like to thank you all, I'd like to thank all
5 the extra effort the Board has gone through, particularly
6 scheduling this meeting so closely after the last one.
7 It's a huge amount of work. Me trying to keep up, I can't
8 imagine how you're keeping up, because there's just so
9 much that you've addressed and worked on and this is
10 important, because it's a good faith effort on your part
11 to help resolve a number of these issues, including the
12 materials of concern prior to the final implementation
13 date, so we all truly appreciate the extra effort.

14 However -- there's always a but, isn't there.
15 We are quite concerned that the Board is planning to vote
16 on materials based on TAP reviews that have never been
17 posted for public review.

18 As you state in your Board Policy Manual,
19 Section 6, there's a required 30 days before the meeting
20 in general, that's the desired amount of time for posting
21 a TAP review. As a former TAP contractor myself, I know
22 how difficult it is to meet this deadline and sometimes
23 it's been impossible, it's only been one or two weeks
24 before the meeting. But to have absolutely no

1 availability of these documents before the meeting is just
2 not a very good process. I believe all these votes should
3 be tabled and the information should be available for the
4 public.

5 The Board has also proposed a major new policy
6 yesterday from the processing task force exempting
7 indirect food additives from review when used in organic
8 production. This policy has been carefully crafted, I
9 know you spent a lot of time on it and we're glad that
10 you've taken this issue on so seriously, however again
11 yesterday was the first time a draft was discussed in
12 public, it's still not available for the public to see and
13 we believe it needs thoughtful and careful review and
14 consideration by the whole organic community.

15 It does represent a major change in direction
16 for reviewing materials from the National Organic
17 Standards Board. For example, I took a quick look at
18 around midnight last night at 21 CFR, Part 178. I'm
19 wondering if you have done a comprehensive review of all
20 the indirect additives that would be included. I didn't
21 see that list in your draft, but I don't think I had a
22 complete copy.

23 Things like animal glue, mineral oil is allowed
24 as a lubricate with direct food contact. In 178.373(o)

1 pypernil butoxide (phonetic) and pyrethrums as components
2 of bags, the language there says pypernil butoxide, in
3 combination pyrethrums may be safely used for insect
4 control on bags that are intended for use in contact with
5 dried feed and also with dried foods, in compliance with
6 another section.

7 You know, there's a lot of adhesives packaging,
8 hard plastics, that sort of thing. I can understand that
9 NOSB has had a policy on packaging, it's never really gone
10 there. I can understand that would be a reasonable line,
11 but we should carefully look at all these things and make
12 sure this is the right direction you want to go.

13 Also, Section 178.101(o) is sanitizing
14 solutions. It lists 46 different compounds and
15 combinations of compounds for use on food contact
16 surfaces, including cautionary ammonium compounds, iodine
17 based materials, which traditionally have not been allowed
18 in a lot of certification programs, as certifiers have had
19 concern about integrity of organic food and food residues
20 of these materials.

21 We also urge the Board to table this matter or
22 at least only consider this proposal to only be a draft
23 recommendation. It may be a good start, but we think it
24 needs a little more review and consideration of possibly

1 other alternatives.

2 Lastly, I would like to provide some specific
3 information to correct some statements I think were made
4 about the European status of the regulation of ion
5 exchange. IFOAM does not approve ion exchange. IFOAM has
6 contested the use of ion exchange at the EU Commission.
7 Ion exchange is not specifically allowed in 289.291. Only
8 one competent authority in Europe, Belgium, has made that
9 interpretation for it to be permitted under that
10 regulation.

11 As you know, the different countries in Europe
12 all have their own way of interpreting the regulations and
13 there's a lot of variation. It is a controversial issue
14 in Europe, as well as here. Like the Soil Association is
15 not in favor of it. I think there is probably more
16 certified product than certifiers are aware of in Europe
17 using ion exchange because they haven't looked at it very
18 closely either, but I think it's an issue that's going to
19 come to the front there. So anything you do regarding
20 that you should do carefully, with deliberation, realizing
21 it may set a precedent.

22 MR. RIDDLE: That's it on your time.

23 MS. BROWN ROSEN: Okay. I'm almost done here.

24 The best way we think to proceed with -- you know, OMRI is

1 not opposed to ion exchange. We just think that it is a
2 material that has direct contact that has direct contact
3 with organic food and should go through the petition
4 process.

5 I don't understand why all this effort is being
6 made to circumvent the normal view of materials by the
7 NOSB. I think it would be a very useful thing to do.
8 That way you can have independent information presented in
9 an objective manner, not solely based on information
10 provided by interested parties. Thank you. That's it.
11 Any questions?

12 CHAIRPERSON CARTER: Kim?

13 MS. BURTON: It's my understanding that our
14 draft is a draft recommendation and it will be presented
15 as such and posted on the website for comment. That being
16 said, we also --

17 MS. BROWN ROSEN: Good. Thank you.

18 MS. BURTON: I also just wanted to make a point
19 that the task force was given the directive to look at
20 OFPA and to look at the NOP Rule and based on that, set
21 those fence posts and packaging clearly is not part of the
22 purview of our review.

23 So as much as we would like to look at
24 everything, like Rosie said, we have to look at the

1 enforcement of it and the legality of it from our task
2 force point of view.

3 MR. RIDDLE: With that being said, other parts
4 of the Rule do have requirements that packaging cannot
5 contaminate products. Even though it's not reviewed by
6 us, it certainly has to be dealt with in the organic
7 system plan and the certification process.

8 MS. BROWN ROSEN: Right. But pyrethrum is on
9 the National List. Do you want bags with pyrethrum in
10 them on dried foods?

11 MR. RIDDLE: Yes, but PVO is not.

12 MS. BROWN ROSEN: Right. But I just want that
13 to be discussed and also the sanitizing issue, I think.

14 CHAIRPERSON CARTER: Any other -- Rose.

15 MS. ROBINSON: I've got a question in terms of
16 just process and petitions, I guess it's more for Rick.
17 Say for example you have that within the draft, that the
18 NOSB decides that and the USDA accepts it as not looking
19 at packaging, however say there's some industry
20 information where there's a concern about a material that
21 might be used in packaging.

22 Can that be petitioned and looked at or would
23 that petition then go to the Materials Committee, talked
24 about in processing and say that's not within our

1 consideration?

2 Something like that probably has not come up
3 yet, but what would happen in that kind of situation?

4 MR. WILLIAMS: I think that's a question for the
5 attorneys.

6 CHAIRPERSON CARTER: Russell?

7 MS. BROWN ROSEN: Russell Libby is the Executive
8 Director of Maine Organic Farmers and Gardeners
9 Association and I just received this brief statement to
10 read on their behalf.

11 "MOFGA would like to express its support of the
12 NOSB interpretation that results in the production of
13 livestock being managed organically from the last third of
14 gestation, exclusive of the one time conversion for dairy
15 herds in the one year before production exemption for
16 purchased animals.

17 "This includes feed and physical management. We
18 support the strict interpretation of the Rule in regards
19 to health care also. Cows need to be managed organically
20 from the last third of gestation in order to maintain
21 consumer confidence in these products.

22 "As currently written, the Rule has very limited
23 options for livestock producers in the realm of health
24 care. MOFGA encourages the NOSB and the NOP to actively

1 and aggressively review health care materials to increase
2 the number of products available.

3 "MOFGA also supports OMRI's suggestion to allow
4 for the use of synthetic excipients in livestock
5 production aids." And that's it.

6 I'd like to point out that Maine is enforcing
7 organic health care on farm management of animals at this
8 point and as Tina pointed out, all the other northeastern
9 dairy certifiers are doing that now. Thank you.

10 CHAIRPERSON CARTER: Okay. Katherine DiMatto
11 wants to comment on "stuff."

12 MS. DIMATTO: No.

13 MR. MESH: I'll take her time.

14 CHAIRPERSON CARTER: Marty wants the time. Nice
15 try, Marty.

16 MS. DIMATTO: That's a falsification of my name.

17 MR. RIDDLE: Marty has been busted. Come on.

18 MR. MESH: It was a failure of communications.

19 MR. RIDDLE: I was going to say handwriting
20 analysis would show that that's Marty Mesh's handwriting.

21 Marty Mesh.

22 MR. MESH: I'd like to wait until after the
23 fellow from American --

24 CHAIRPERSON CARTER: If that's okay with him,

1 otherwise we have to take it in order. All right then,
2 let's go to -- is it Bill --

3 MR. DENEVAN: Denevan.

4 CHAIRPERSON CARTER: Denevan, there we go.

5 Okay, followed by Jim Pierce and then Marty, if you'd go
6 out there and see if others have signed in, bring me the
7 sheet?

8 MR. RIDDLE: Don't sign any new names, though.

9 CHAIRPERSON CARTER: Go ahead, Bill.

10 MR. DENEVAN: My name is Bill Denevan, I'm an
11 organic grower, I addressed the Board yesterday on another
12 item, it had to do with pheromones and I got to thinking
13 last night about what other issues -- my name is Bill
14 Denevan, I'm a grower, I've been growing organically for
15 27 years, I've never grown the other technique,
16 conventional and I'm here to represent myself and other
17 growers exclusively.

18 This item came up and I'm really, really
19 concerned about it and I'm here to urge the Board to allow
20 us to suspend the final resolution of the Class 3 Inerts.
21 I'm really, really concerned about the Class 3 Inerts Ban
22 that we're proposing coming up and I'd really like to see
23 that -- I looked into my little toolbox of organic
24 materials and I looked into the toolbox of all my other

1 grower friends and almost every single material that we
2 use has a Class 3 Inert in it.

3 I think well, how in the heck are we going to
4 grow apples with no materials, no sulfur, no oil, no
5 pheromones, no BT. My God, that's our whole arsenal of
6 material that we use and they all have Class 3 Inerts.

7 You're probably wondering why at this eleventh
8 hour, why at this last minute when we're going to go and
9 have our law changed tomorrow or the day after tomorrow,
10 why would somebody come in at the last second to say hey,
11 stop this.

12 The reason is because I'm a grower, I don't have
13 any financial interest in any pesticide company, in any
14 seller of materials, all these people will not submit
15 their materials to the OMRI for analysis. They will not
16 do that and as it came to my attention over a period of
17 the last year, yes, there's inerts in there; yes, there's
18 inerts in this product.

19 I think it's going to be insane in these tough
20 economic times to go and make a buck without any of our
21 materials. Do I have a research and development
22 department? I don't think so. I don't think any of the
23 people that are my friends that grow apples or pears or
24 peaches or whatever have a research and development

1 department.

2 These big companies that we've been buying our
3 materials from, yes, they have it. And why haven't they
4 come out and done a research and development thing for a
5 new product that would be more acceptable to OMRI and to
6 the NOSB? I don't know. Maybe we're just -- organic is a
7 little speed bump, they could care less.

8 I don't want to be standing here talking pro
9 inert 3 ingredients. As a person who wants a higher
10 standard, I feel really bad, but on the other hand, in
11 these tough economic times, none of us growers are making
12 any money. We're on welfare, for God sake. Every one of
13 us growers is getting money from the government, like the
14 wheat farmers and the rice farmers. Whether you're
15 organic or chemical, we're all getting welfare and here
16 we're going to all of a sudden have research and
17 development departments when we have 10 acres, 20 acres,
18 30 acres?

19 All my friends have 30, 40 acres. We're not
20 hundreds of acres. We can't afford to figure out what
21 materials might work. OMRI tells us, they say to us oh,
22 we've got some material that will work, but do these
23 people at OMRI, do they have farms? Do they put their
24 money where their mouth is, you know, to go out there and

1 grow a crop? I don't think so.

2 I'm really, really concerned because I've worked
3 really hard, I've worked really, really hard to use the
4 materials that have been presented to me to the best of my
5 ability and I advised other people to use these materials
6 because I know they work and I've tested them over years
7 and years and years and now somebody is going to come out
8 of left field and tell me that I can't use them anymore?

9 Well, I'll tell you, I want to go on record
10 right now to say I will be the first person that will be a
11 minor non-compliant person on Monday. I want to say that
12 I'm going to be that person and I'm going to say to my
13 growers that I stood up here and I talked to you guys.

14 Whether it's oil -- oil. The first thing we put
15 on in the year is oil. Every single oil has inert
16 ingredients in it, every single one. United Agriproducts
17 submitted 4040 oil, then there's another oil, stylet oil,
18 both these were submitted to OMRI. What did OMRI do?
19 They banned it.

20 I asked the other companies that make petroleum
21 oil, I said do you have the same ingredients that these
22 people have? Oh, yes, but we're not stupid enough to
23 submit it, because we're going to be banned. You know,
24 what kind of deal is that? That's been going on for

1 years. All of us in the industry know that these
2 materials, inert ingredients are in there.

3 What are we supposed to do, just not use oil
4 anymore? Come on, dormant oil, that's a basic thing that
5 we use in production. Summer oil, basic thing.

6 Pheromones, obviously that just came up
7 yesterday, the pheromones. Then you go to BT, a lot of
8 the BTs have inerts in them. But then on top of that, you
9 have our sulphurs, our micronite (phonetic) sulphurs.
10 Hey, we go out there and we look for rain events, we put
11 our sulphur on ahead, we have the prophylactic thing --

12 MR. RIDDLE: Wrap it up.

13 MR. DENEVAN: One more minute?

14 MR. RIDDLE: No, wrap it up.

15 MR. DENEVAN: Okay. But anyway, sulphur is the
16 other thing that has inert ingredients in it to help it
17 hold when we have three inches of rain. You know, what
18 are we supposed to do? Are we supposed to just develop a
19 whole new technology? I don't think so.

20 CHAIRPERSON CARTER: Questions? Kim?

21 MS. BURTON: It's tough sitting on this Board
22 and hearing testimonies like yours and everybody else's
23 who are not prepared with their materials for the Rule and
24 whether it's List 3 Inerts or sodium hydroxide or this or

1 that or what have you, we sympathize with everybody, but
2 the Rules have been there and List 3 Inerts have not been
3 allowed in organic production, List 4 have.

4 Now everybody is just having to stand by how the
5 Rules are written and if those large companies have brand
6 name products that have List 3 Inerts, they need to
7 petition so that you're not out of business or that you
8 can still use them.

9 There has been a process and there has been a
10 material review process and unfortunately, we're down to
11 that train wreck, folks. We knew this was going to come.
12 We haven't had a petition since last July. Where are
13 they? If everybody is talking about materials, we haven't
14 seen them come in.

15 MR. DENEVAN: Yes, but do you understand that
16 growers are caught in this train wreck? We're not going
17 to represent manufacturers.

18 MS. BURTON: I do understand that, but you know,
19 somebody had to have been notified at some point that you
20 couldn't use your material anymore. You know, I guess
21 it's advice to people like you and Grace and everybody
22 else, you have to watch out for yourselves and we all have
23 to, whether we're large manufacturers or small farmers,
24 and go through a trade association, go through your

1 certifier, do something, but don't end up in the situation
2 that you're in, that you just don't have the tools that
3 you need.

4 MR. DENEVAN: Well, if you say they don't exist,
5 I'll let all my grower friends know that the Board does
6 not feel it's that important.

7 MS. BURTON: I don't think it's the Board's
8 jurisdiction to be able to say yeah, we're going to allow
9 any List 3 Inerts. We could if we reviewed them. You
10 know, that's what the process is for.

11 CHAIRPERSON CARTER: Rick?

12 MR. WILLIAMS: I totally am in your camp.

13 MR. DENEVAN: Great. Thank you.

14 MR. WILLIAMS: I have said since I've joined
15 this program in April of '98 that List 3 Inerts are going
16 to be a problem and I was at the meeting where List 4 was
17 carved off and this Board could have carved off List 3 at
18 the same time. I say "this Board," I mean the NOSB,
19 obviously most of the people on this Board were not there
20 at that time.

21 MS. BURTON: None of us.

22 MR. WILLIAMS: But this issue was a very hotly
23 contested issue and unfortunately, over the course of four
24 years, we still haven't solved the problem and I

1 personally feel bad about it.

2 MR. DENEVAN: I'd like to know how many growers
3 were consulted as to what materials that they use to grow
4 their crops.

5 CHAIRPERSON CARTER: You asked the question, so
6 I guess we'll let somebody respond to that, because I just
7 don't want to get into a debate during public comment.

8 MS. BROWN ROSEN: There was a study done by the
9 NOSB, Eric Seidman was in charge of it, Brian Baker worked
10 on it. They certified all the certifiers, they looked at
11 lists of all the currently reviewed approved materials and
12 this was before the List 4, so it included material with
13 List 3, they got information about them, they tried a
14 number of ways to get information about the inerts. There
15 was a lot of input on it.

16 MS. BURTON: Could I ask you a question, Emily?
17 We have talked in the past about List 3's that would
18 possibly be moved to List 4 and there's about ten
19 materials. Are these materials the ones that are going to
20 effect these growers and their brand name products?

21 MS. BROWN ROSEN: The task force that's been
22 formed is still working on this and we have submitted a
23 list of -- I think there was maybe 15 or 20 products,
24 including a lot of these categories Mr. Denevan is talking

1 about. For the record, we do have GMS Stylet Oil in the
2 OMRI list, it's not prohibited.

3 MS. BURTON: Say that again?

4 MS. BROWN ROSEN: The one oil that he mentioned
5 as prohibited. It's been reformulated and it is on our
6 list. We have two oils on our list now.

7 MS. BURTON: So again, some of these materials
8 that we're just waiting on EPA possibly to recategorize?

9 MS. BROWN ROSEN: Well, they're pulling out the
10 inerts. Some of these products have been historically
11 allowed by Washington State, CCOF and they didn't know
12 what was in them and they're identifying what's in them
13 now and they're possibly coming up with a recommendation
14 as a way of dealing with that in maybe a short term
15 solution. It is very preliminary information from them so
16 far.

17 MR. DENEVAN: Can I say one thing?

18 CHAIRPERSON CARTER: Yes.

19 MR. DENEVAN: Just one thing. The one thing
20 here is that us growers do not know the inert ingredients
21 in our products that we've been using for all these years.
22 We've asked time and time again these big companies,
23 Nivartus (phonetic), you name it, whatever company, all
24 the various BT people, we've asked them what are your

1 inerts, what are your inerts, we're scared, we're scared,
2 are we using the right stuff. Oh, that's not -- we're not
3 going to give out that information, that's private
4 information that we need to have to compete with our
5 competitors out there.

6 I'm not here to support inerts. My God, I want
7 to have a high standard. But on the other hand, I'm here
8 to support farmers. Why should we farmers be put in
9 jeopardy with this new law coming out on Monday? It
10 scares the hell out of me and we don't even know what
11 we're fighting for. We don't even know what we need. It
12 doesn't make sense.

13 We're supposed to just switch gears completely,
14 use a completely different new array of materials? I've
15 taken years to learn how to do this stuff and I'm going to
16 have to relearn everything in a couple of days? I'm
17 growing apples right now in the southern hemisphere with
18 the wrong inerts. I'm growing them right this minute and
19 I don't know what to do. I feel like I'm non-compliant.
20 Right this second I feel like I've got a big black mark on
21 me.

22 CHAIRPERSON CARTER: We understand and I think
23 the only point that I would make is on these issues,
24 there's going to be a lot of growers and excuse me, I have

1 a bias here, because I spent my career working in non-
2 profit trade organizations and the like, but we rely a lot
3 on the representative producers to come forward and be a
4 part of this process so that individual growers don't come
5 forward and say hey, it's 11:35, at midnight we've got to
6 stop everything. That's just my plug for -- you know.

7 MR. DENEVAN: I'm just here to tell you that
8 every single grower is non-compliant right now. Every
9 one.

10 CHAIRPERSON CARTER: Owusu, then Rose and then
11 we're going to move on.

12 MR. BANDELE: I just wanted to ask Emily the
13 status of most of the formulations of BT. Do most of
14 those contain the List 3 inerts?

15 MS. BROWN ROSEN: We have I think 10 or 12 or
16 more than that BTs on my list that have only the List 4
17 ingredients. There's one Dispel product, 2X, that's been
18 removed that was widely used, but there's also another
19 Dispel, WP, that is allowed, that's still on our list.

20 There are alternatives. People have preferences
21 for certain formulations, but there are many forms of BT
22 on our list, yes.

23 CHAIRPERSON CARTER: Go a head, if you have a
24 follow up.

1 MR. BANDELE: So as a follow up, then there are
2 oils that are available, dormant oils with --

3 MS. BROWN ROSEN: There's only a few oils, there
4 needs to be more. That's an area that needs some more
5 work, definitely. But EPA actually was looking at that
6 specifically and I think there will be some help there.

7 Preliminary information is that some of them are
8 formulated with List 4's and then some have List 2's in
9 them, so we need to know this information.

10 CHAIRPERSON CARTER: Rose?

11 MS. KOENIG: Contrary to the people who sit on
12 OMRI, contrary to many of the people who sit on the Board,
13 I was born and raised on a farm and I've been doing
14 organics now for 20 years. I'm probably a little bit
15 younger than you, but my life has been devoted to
16 agriculture too.

17 I've been active in all organizations and there
18 were many things on my farm that I had to go ahead and
19 make grants to get a transplant mix, because I don't live
20 in California. I went to school at UC Davis and there's
21 four products in California as opposed to Florida, which
22 is located in the sub tropics and if you think it's hard
23 growing in California, why don't you try coming to
24 Florida.

1 We've got basically zero percent organic matter
2 in the soils, it rains almost every day and you're talking
3 about insect populations. I'm sympathetic to you and your
4 situation and I realize the plight of growers is
5 difficult.

6 However, my position on the Board, I am a
7 producer representative and there's things that I would
8 love to have in my little arsenal, too, of kits, but I'm
9 not here just representing my own farming operation and
10 what makes it easier for me.

11 We're trying to make a Rule and a program that
12 consumers again can true and look at and say yeah, I want
13 to purchase that product. Again, it's about you and me,
14 but it's about you and me as a collective within an
15 industry that is dealing with the public.

16 I don't mean to get personal and stuff, but I
17 see you giving comments to me. We are doing the best we
18 can. Do not look at OMRI as your foe. OMRI is your
19 friend, there's a lot of effort that goes on in terms of
20 getting these things done. We're working with two federal
21 agencies, EPA and USDA, which for a farmer working with
22 those organizations, it doesn't make sense a lot of times
23 how they function and it doesn't make sense that things
24 are not getting done in a quick manner.

1 But if you're involved in the process, and OMRI
2 has been involved in the process, I've tried to be as much
3 as I can involved in the process as a producer. You know,
4 things are moving as quickly and as diligently as it can
5 and we're constrained by what's in the Rule.

6 Again, you see the constraints that we're
7 working under and if you have a better way, other than
8 just saying let me just do what I can, I'd love to hear an
9 alternative perspective on this. You are frustrated,
10 we're all frustrated to whatever degree we are, but --

11 MR. DENEVAN: Well, could I answer your comment
12 about the frustration level about the materials? The
13 problem is that with sulphurs and oils, these are really,
14 really important ingredients, the sulphurs. You have to
15 put this product on ahead of rain events instead of after,
16 like the conventional people do.

17 We have a lot of rain in California and I live
18 in a coastal area, we have constant fog, rain, fog, rain
19 all the time. We have to look at four channels of
20 weather, we have to like be out there wondering what the
21 weather is going to do, then we have to apply our sulphur,
22 then it washes off and you're ruined. Your whole crop is
23 ruined, you go out of business.

24 There's a lot of different sulphurs. I use

1 Stylex, there's microthio (phonetic), there's cumulus,
2 there's dry flowable. All these materials have --

3 MS. KOENIG: I totally --

4 MR. DENEVAN: And some of them don't work at all
5 and we're being expected to go out there and use the ones
6 that don't work at all.

7 MS. KOENIG: Listen, believe me, when I go out
8 and I have to take my peat and vermiculite and all my
9 ingredients and me as my own proprietor, with somebody who
10 I hire for ten hours a week and make my own soil mix that
11 takes me three times the amount of time that I normally
12 do, do I curse at the USDA program? Yes, I do. But when
13 I'm selling my product, I've made that choice.

14 MR. DENEVAN: I try not to curse, I try to be
15 respectful in this regard, right now, but what I'd like to
16 say is that these products -- nobody has asked us about
17 these products that we use. This is all I feel bad about
18 with OMRI, nobody asked us what we use, what all the
19 growers use.

20 MS. KOENIG: That's --

21 CHAIRPERSON CARTER: Okay. We are going to move
22 on and we will maintain order here. Next up, Jim Pierce,
23 followed by then David Engle and then we'll go back and
24 catch the folks that --

1 MR. PIERCE: This is turning into a very
2 interesting and entertaining public comment period.

3 MS. KOENIG: Are we keeping you awake this
4 morning?

5 MR. PIERCE: You're metaphor of the eleventh
6 hour is good, I think someone will bring up the pressure
7 cooker metaphor soon.

8 When we were in Germany, our tour guide
9 cautioned us against the style of the Germans, that they
10 speak very curtly and succinctly and don't be impressed
11 that that's a rude style, but just respect it.

12 Well, as we were escorted from one of
13 Dusseldorf's less than finest drinking establishments
14 later that evening and told to take our business
15 elsewhere, I realized what an effective style that is.

16 I'm from the private sector and I'm here to help
17 you. Pay close attention for a few minutes and I'll guide
18 you through today's material so we can all see the Skins,
19 Packers game at 4:00.

20 Owusu and the Crops Committee are right on with
21 their recommendations, by hitting the nail so squarely on
22 the head, they have spared themselves the wrath of CSAR.
23 Specifically BHT, I'm sorry, but this is outside of your
24 purview. As an inert in a pheromone twistie which never

1 comes in contact with food surfaces, this should never
2 have passed the initial screening.

3 Unfortunately, several materials have squeaked
4 past this initial screening stage, wasting precious
5 resources at \$4,000 a pop cell wall carbohydrates and
6 yeast derivatives are recent examples.

7 It's understood that you want to give each
8 petition a fair hearing, but remember, you're the experts,
9 we're just the bozos asking the questions, since maybe
10 means no.

11 To your credit with BHT, you recovered and
12 instead of putting this on the list, you've proposed to
13 amend Section 203 and clarify pheromones.

14 Potassium sulfate, a textbook conundrum. The
15 synthetic fertilizer made from two naturally occurring
16 materials, identical to the natural mined version, is
17 better than many other natural alternatives, but the
18 cornerstone is no synthetic fertilizers.

19 It's not clear to me that the natural mined
20 version is actually available in commercial quantities,
21 but it's still a synthetic fertilizer. Drop the gavel,
22 prohibit it, next question.

23 1,4 dimethylnaphthalene -- anyway, I tried it --
24 the Crops Committee recommends to prohibit, CSAR does not

1 entirely agree. While it would appear that suitable
2 alternatives are available, the synthesized version
3 identical to the natural occurring potato version, granted
4 there are some manufacturing concerns, but weighed against
5 the value of the tool, I don't see the justification of
6 throwing it out. But, like you, I put a lot of stock in
7 that first reviewer with 30 years experience growing
8 potatoes.

9 On to livestock. The agenda lists six materials
10 for voting that were deferred from the last meeting for
11 more information. Unfortunately, only three have been
12 returned and unfortunately, they grade a C minus and two
13 F's. Please put these materials into two columns:
14 Chelates, calcium propionate and mineral oil are status
15 quo in the industry today, organic farmers are using these
16 materials today and they very well may still be allowed to
17 use them when the votes are finally tallied.

18 To put them in limbo until the May meeting would
19 be just too confusing. Please use your collective
20 wordsmithing genius to figure out how to allow producers
21 to continue using them until the Austin meeting. Richard
22 and Barbara, please help them out here.

23 The other three materials, atropine, flunixin
24 and furosemide are prohibited in the now pending edition,

1 so postponing the decision will not greatly effect
2 farmers, although postponing flunixin will doubtless upset
3 Dr. Karreman and most of his 81 veterinarian consortium.

4 As a closing thought, let me leave you with
5 this: with a very few exceptions, every petition that
6 comes to you is the result of careful consideration by the
7 petitioner as to the suitability to an organic system.
8 These are the tools that organic practitioners honestly
9 want and feel belong in their tool boxes.

10 Our resources are severely limited already. Our
11 intentions are truly in the spirit of organic purity.
12 Please start your technical considerations from our side
13 of the fence.

14 P.S., ion exchange, forget about it. Beyond
15 thank you and God bless you, I will forego the gracious
16 appreciation speech for fear of being cut off in mid
17 kudos.

18 CHAIRPERSON CARTER: Questions?

19 MR. WILLIAMS: I wouldn't fear being cut off in
20 mid kudos. I've got Mark over here, he's going to make
21 sure you get to finish.

22 CHAIRPERSON CARTER: Any questions?

23 MR. WILLIAMS: Yes, I do. I want to make sure
24 I've got this clear. Back up in your thing, near the end

1 that talks about what you wanted Barbara and I to do for
2 you.

3 MR. PIERCE: There's three materials in the
4 Livestock Committee that are status quo now being used by
5 producers. It's not going to be possible to take a
6 legitimate vote on those today, because the additional
7 information is not back. However, taking them off and
8 then potentially putting them back on in May is going to
9 be very confusing for certifiers and growers and the
10 stream of commerce and everything.

11 I don't see an easy fix. I'm just asking you to
12 use your collective process to see if they can remain as
13 they are right now, which is allowed pending review, being
14 considered, until the final information is there and the
15 final vote can be made. I genuinely respect that you have
16 to have the information to make a valid decision.

17 MR. WILLIAMS: Would you extend that to all
18 materials for which we've received a petition as of today?

19 MR. PIERCE: Oh, no. Absolutely not and the
20 reason I can draw that line is clear. These have been
21 looked at part way. There is three-quarters of a TAP
22 review or seven-eighths or however much is there pending
23 the further additions, so they have been screened and they
24 have been considered and discussed.

1 The ones pending TAP, you really haven't looked
2 at them. You don't know what's in that mix.

3 CHAIRPERSON CARTER: Okay. Kim?

4 MS. BURTON: Richard, this Board made a
5 recommendation that any material that has been forwarded
6 for a TAP review be allowed for continued use until voted
7 upon by this Board and we have made that formal
8 recommendation a couple meetings ago. I can pull it back
9 out if we need to.

10 MR. WILLIAMS: Okay, but again, that's forwarded
11 for TAP review.

12 MS. BURTON: Those materials that are currently
13 at contractors being reviewed for the TAP. Not petitions,
14 but actually forwarded for a TAP review.

15 MR. RIDDLE: Is this just a one time, right now,
16 or this would be an ongoing --

17 MS. BURTON: No, it was an ongoing
18 recommendation.

19 MR. PIERCE: Another moment I'm glad I'm not on
20 your Board.

21 CHAIRPERSON CARTER: Forget it about ion, what
22 do you mean, "forget it"?

23 MR. PIERCE: It's not in your purview. I don't
24 see it as direct food contact, in or on organic foods. If

1 you cross that line, you're going to stumble into
2 packaging and lots of other quagmires. Use your resources
3 on what matters, the ingredients, the active ingredients
4 that you're talking about.

5 CHAIRPERSON CARTER: Okay.

6 MR. PIERCE: That's easy for me to say. Thank
7 you.

8 CHAIRPERSON CARTER: Rose, did you have your
9 hand up or did somebody have your hand up down there?

10 MS. KOENIG: I just wanted to -- I seem to
11 recall that, Kim. Can we just see that in writing so we
12 can just kind of all review it for our own good?

13 CHAIRPERSON CARTER: Okay. Then David Engle and
14 then we will go back to the beginning of the list to Chris
15 Tompkins.

16 MR. ENGLE: Good morning. I would like to echo
17 all the accolades that you all have commanded yet this
18 morning. This is a huge, huge project that we're coming
19 to a certain point in time on and then we will go on from
20 there. I think everybody has been doing their best.

21 I have a variety of issues that I'd like to
22 address here that have come up over the last day that I
23 would like to touch on. Number one, the dairy testimony
24 that you heard from Kelly, the one that was read from TCO.

1 I am a dairy farmer, I also represent an agency
2 that certifies well over 200 dairy farmers in the midwest.
3 The collective position of the dairy group, from the Crop
4 Organic Valley, of which I am a member, was on Thursday to
5 support last third of gestation for feed, pasture and
6 health care requirements on a categorical basis.

7 Now, to add to that, I don't think, and I wasn't
8 there at that meeting when that was stated, I left before
9 it was done, but I heard what happened, as a dairy farmer,
10 as a representative of an agency, I think that the OTA's
11 position of working towards this is valid and it's going
12 to be left apparently up to a lawyer to determine whether
13 or not that can be placed in the loop without the Rule
14 change, whether it can be something that the certification
15 agencies can move forward with on an interpretative basis.

16 I would like to echo Rosie's slight defense, or
17 not "slight," but brief defense of OMRI. OMRI is not a
18 foe in this job, I know you all agree to this. OMRI just
19 takes what's put in front of them and provides a response
20 to it based on the criteria that they have to work with.

21 As far as this materials train wreck, I think
22 that the term "train wreck" has been used for -- at least
23 since last October and perhaps before that. I still think
24 that the phenomena, whatever we want to call it, is upon

1 us and it is a problem. I'm glad to hear what you said,
2 Richard, about your ongoing concern about materials in
3 this instance.

4 I think Tom Harding's suggestion for putting
5 everything forward in a Public Notice that you can to this
6 point is excellent. I did have three suggestions
7 yesterday in my testimony that I'm not going to go over,
8 they're there in front of you, that address the materials
9 issues.

10 It's a huge, huge swirl, you can tell from just
11 the last 20 minutes of comments here. There's lots of
12 different interests here and that's how it should be.
13 We've got to come out of it. My personal point of view,
14 there seems to be a dichotomy set up here between high
15 standards and reality. I don't think they're different,
16 particularly since as Tom indicated, we're not perfect.

17 We have to move forward with where we are at. I
18 think Goldie summed it up very well at our last meeting
19 here, where we were talking about activated carbon and you
20 shared your progression from where you had been on
21 activated carbon to where you were at that point and that
22 it's a lot easier to raise something -- Mr. Denevan, I
23 acknowledge your situation and I'm very much in support of
24 what you were saying, but in general, for us in the

1 midwest, corn, beans, hay, milk, it's a lot easier to
2 raise it without synthetic inputs. It's much more
3 difficult, perhaps impossible, to take that and put it in
4 a package so that people can eat it.

5 I think that this whole spectrum has to be taken
6 into account with materials. I would agree with Mr.
7 Denevan that the process to this point is very, very, very
8 unfair, I think, to expect a producer to be even talking
9 with -- you know, OTA was mentioned as a representative to
10 come forward with petitions. That's not their place.
11 OMRI is not going to come forward with petitions. It's
12 the producer that has to do it.

13 It's daunting and it's -- generally speaking, I
14 as a producer am going to have five things on my medicine
15 shelf that are going to have 50 different inerts in them
16 or 150, probably, but to speak of active ingredients and
17 it's just not going to happen. The process here --

18 MR. RIDDLE: Minus one minute.

19 MR. ENGLE: The process here is such that I
20 think we need to have some way for that which has not been
21 addressed to come forward. I'm going to be like Jim and
22 others here, figure it out. The certification agencies
23 are going to have to make a decision at some point and
24 those decisions will find their place in the process,

1 particularly with the MOP, most likely.

2 CHAIRPERSON CARTER: Thank you.

3 MR. WILLIAMS: Rick --

4 MR. ENGLE: David.

5 MR. WILLIAMS: As I've stated yesterday and

6 before, we will work with you if you make mistakes.

7 Honest mistakes are working towards perfection, which we
8 will never achieve.

9 The other thing I wanted to say is that I heard
10 from your presentation that you felt only producers could
11 submit petitions and if I heard that wrong, I apologize,
12 but I need to clarify that anyone, anyone can submit a
13 petition. It could be OMRI, it could be a Board member,
14 it could be a producer or a handler or a manufacturer,
15 anyone with an interest can file a petition to have a
16 substance added to the list. We don't differentiate
17 between different groups, anyone can file a petition.

18 MR. ENGLE: I realize that and I was just
19 speaking for producers, as a producer, in equity with Mr.
20 Denevan. We're just not in that loop and further, which
21 may be where you picked this up, we don't want to be in
22 that loop.

23 MR. WILLIAMS: It could be very difficult for
24 you.

1 congratulations. I was working on the Hill in 1986 when I
2 first heard about what would become the 1990 Act and I'm
3 very excited for all the hard work this Board and numerous
4 other people have put into it to make it happen, so
5 congratulations on that.

6 On the other hand, problems and accreditation.
7 I'm going to bring those up and I understand we talked
8 about criticism earlier, but I think that we can all agree
9 that Ken sure wishes he listened to Sharon Watkins over at
10 Enron and he might be sitting atop his tower still instead
11 of looking for stripes.

12 I'm going to bring these out, if they're
13 interpreted as criticism, then so be it, but I think they
14 need to be discussed.

15 Mainly, it's the way in which the accreditations
16 were issued with what I would say were major non-
17 compliances to quite a few clients, specifically conflict
18 of interest. Again, I bring that up as an issue from
19 everybody, in every part of the federal government right
20 now and from the SEC and everywhere else.

21 I find it odd that the program felt that that
22 was a minor non-compliance and that they waived conflict
23 of interest for a number of people. In addition, waiving
24 the standards, which they also did, I think was a mistake.

1 Beyond all that, though, the Rule and the
2 decisions on accreditation all require those things to be
3 handled within 120 days. I'm not in here to deal with
4 individuals, because that's not what I'm speaking about,
5 but most of those, and according to my conversation with
6 Mr. Mathews yesterday in fact none of those have been
7 corrected. The 120 days on those that were issued on
8 April 29 ran on August 28.

9 That's an issue that needs to be dealt with.
10 That's an issue this Board needs to consider, because I
11 think we're rearranging deck chairs on the Titanic. If
12 materials is a train wreck, this is a sinking ship,
13 because all you need is for the public to hear that you're
14 allowing conflicts of interest, you're waiving the
15 certification standards.

16 I think that that will have a tremendously
17 negative impact on this Rule, which obviates everything
18 that everyone has worked so hard for.

19 Beyond that, I also think that we need to
20 consider some things as far as perfection. We're not
21 going to achieve perfection. My religion says there's
22 only one person that achieved perfection, other people
23 have different views, but I'm not going to achieve
24 perfection, the Board is not going to achieve perfection,

1 but we have to achieve compliance.

2 Compliance with the Rule, compliance with the
3 law is not something that can be waived or handled in
4 different manners. Such things that I think you all need
5 to consider and talk to your attorneys are regarding the
6 materials and posting them on the web and allowing this
7 interim compliance.

8 The reason is it's okay if the chemical or the
9 product gets approved in the Final Rule, you're not going
10 to have a problem. About 99 percent of the time that's
11 going to happen, but what happens that 1 percent of the
12 time when Chemical A gets approved by the Board and
13 somebody brings up something in rule making and kills it.
14 You're going to have a lot of product out there was a
15 banned substance and how are you going to handle that?
16 Mainly publicity, as well as just the economic and legal
17 issues.

18 Staffing. I'm not here to tell you that AMS has
19 nearly enough staff to handle the NOP, but I'm also here
20 to tell you that the APA got their heads bashed in for
21 using the same excuse on TNDL's. The work in
22 conservation, they lost every single lawsuit that was
23 filed in every single state because their excuse for TNDL
24 was we don't have the staff. The federal court says

1 that's great, the law says and the Rule you'll do, you'll
2 do it in its time frame, you didn't do it, you owe
3 tremendous damages to a tremendous numbers of people.

4 I think that would be a terrible thing to happen
5 in this situation and I hope it doesn't. I hope that we
6 can get on board.

7 Finally, peer review. I don't think not having
8 the peer review panels is as innocuous as Barbara, and I
9 wish she was here, made it out to be. The peer review
10 panel is mandated in the Rules to be doing yearly audit of
11 the accreditation process. It calls into question the
12 status of the entire accreditation process if no audits
13 are done.

14 It's a mandatory thing. These are all shawls.
15 It's much like the issue -- technically speaking, all the
16 decisions on accreditation done on April 29 and were
17 corrected within 120 days should all be under suspension
18 hearings because (a) that's a the decision and (b) that's
19 what the Rule says. Remember, we're talking shawls, not
20 maze.

21 So I encourage you all to look into this. I
22 encourage you all to take action. There's other issues
23 which I'll submit under written cover, either at this
24 meeting or the next one, but these are serious issues and

1 the long term impact could be substantial to what we're
2 doing. Thank you.

3 CHAIRPERSON CARTER: Questions, comments?

4 (No response.)

5 CHAIRPERSON CARTER: All right. Chris, thank
6 you very much.

7 MR. TOMPKINS: Thank you very much.

8 CHAIRPERSON CARTER: Marty Mesh.

9 MR. MESH: Marty Mesh, Florida Organic Growers
10 Quality Certification Services and I will build on --

11 MR. RIDDLE: Get a little closer to the mike,
12 please.

13 MR. MESH: Stop the clock.

14 MR. RIDDLE: It hasn't started. I was waiting
15 for you to approach the mike, sir.

16 MR. MESH: Okay. How's that?

17 MR. RIDDLE: Thank you.

18 MR. MESH: I'll wait until Rick and Barbara get
19 back for the kudos, so they'll come at the end, if there's
20 time.

21 But I will build on something that Chris
22 Tompkins just said and that is our support for a peer
23 review panel and it was good to hear the program is
24 sensitive to it and I hope they'll make some progress on

1 it. The whole certification community thinks that's a
2 critical part of the program.

3 I wanted to touch on a couple things. One was
4 enforcement. In my comments through the years I've always
5 said that the Department shouldn't even publish the
6 Proposed Rule without including an enforcement component
7 of the Rule.

8 How is enforcement going to work, that was one
9 of the reasons that the community, the industry, came to
10 the USDA to begin with and here it is the day before
11 tomorrow and I as a certifier don't know how the
12 enforcement program component of the Rule will work. It's
13 a bit of a void that needs to be addressed as soon as
14 possible.

15 Rick's comment the other day about certifiers
16 don't interpret, I don't know what else we do constantly
17 except interpret standards and try to do so consistently.
18 I need him to be here, but if there's a problem with our
19 standards interpretation project, all of the information
20 is about to go out to every certification applicant, every
21 applicant for accreditation that the NOP has, so if
22 there's a problem with the word "interpretation," I need
23 to know.

24 The TAP reviews, it seems staggering to me that

1 the Department would give \$50,000 more to a contractor who
2 is yet to perform the duties and then give you back the
3 information that was inadequate before. I just wanted to
4 point that out, although Rick and Barbara still aren't
5 here, so I don't know what good it does to say it.

6 Then I think the last one is Jim mentioned
7 something about conventional soy beans, potatoes and corn
8 could be a source of amino acids or substitutes from the
9 finding that they saw in Europe, but it was conventional,
10 less the allowance for conventional livestock feed in
11 Europe, but here they could well be GMO ingredients, so I
12 just wanted to call that to your attention.

13 I think the last one was that I was personally
14 devastated that Rick would say two meetings ago that the
15 roll out would include a presentation on whole foods at
16 the reception at the USDA Building and not one person in
17 this meeting was invited to the reception at USDA. I'm
18 personally just devastated about that, especially as a
19 government agent. I feel like that's my office in there
20 and that the least he could do is to invite all the people
21 that have been here through the years to a reception to
22 it, so that's it.

23 CHAIRPERSON CARTER: Questions or comments for
24 Marty?

1 (No response.)

2 CHAIRPERSON CARTER: Okay. Thank you. Those
3 are the ones that I had signed up and yesterday Kelly Shea
4 had signed up with a request that a comment from Hugh
5 Karreman be read into the record. We did receive a copy
6 of that, so I will read it at this time, within five
7 minutes here.

8 MR. RIDDLE: The clock has started.

9 CHAIRPERSON CARTER: LONOSB Livestock Materials
10 Committee. "I thank you for allowing me...have submitted
11 the various veterinary medicines to be petitioned. I
12 don't think that I am the official petitioner, however,
13 therefore I would like to ask you all how best I can help
14 you clarify unresolved issues that you may have. Please
15 do not hesitate to ask because I feel I perhaps can best
16 be an expert witness.

17 "I apologize for not having been present on the
18 second day of the last meeting in Washington, but I'm a
19 solo practitioner and cannot be away from the local area
20 for long stretches, as I have need to have coverage for
21 emergencies. I will make plans with a colleague to cover
22 for me on Saturday, October 19 and Sunday, October 20, as
23 the weekends are lighter in general. Also, Becky, my
24 wife, will have delivered --" which she did -- "by then.

1 "Let me reiterate that I am not a manufacturer
2 of any of these veterinary products. I personally do not
3 stand to monetarily gain or lose by them being allowed or
4 prohibited. Hopefully I was clear in my five-minute
5 public comment that licensed professional veterinarians
6 are in dire need of these handful of medicines in order to
7 relieve the pain and suffering in certified organic
8 livestock. I choose this particular group of medicines
9 having been in practice now for eight years, previously in
10 a large group practice and now as a solo practitioner,
11 knowing what kind of emergencies occur and how
12 veterinarians typically respond to such situations.

13 "I truly enjoyed Rosalie Koenig's questions
14 posed to me regarding how I philosophically view the idea
15 that farmers are required to give appropriate medication,
16 even though doing so may well render the animal useful for
17 further organic production.

18 "I really could have gone on for hours regarding
19 that question, as I have wrestled with that exact question
20 for about five years now, while out on the farms, in
21 barns, faced-to-face with farmers when their animals are
22 down and out.

23 "I guess my basic conclusion is this: the
24 organic community cannot say that animals are treated

1 humanely unless some prescription medicines are allowed.
2 You cannot have it both ways, saying that they are treated
3 humanely, yet require removal of an animal that is given
4 something to effectively relieve pain and suffering. That
5 is like hand milking cows by candlelight. It is just not
6 reality, even though it sounds wonderful.

7 "Also, how many mothers who are organic
8 consumers would deny their own children medication that an
9 emergency room doctor prescribes to relieve pain and
10 suffering? Why should the animals which produce the
11 organic milk they buy be denied a prescriptive item on an
12 emergency basis? Aren't certified organic livestock
13 allowed to be sick? Or if they do become sick, are they
14 just supposed to be jettisoned from the herd?

15 "As it stands now, none of my organic farms
16 would pass the Humane Society's three-part program because
17 of these kinds of issues. It's kind of odd that certified
18 organic livestock would not pass as treated humanely by
19 the nation's leading watch group of livestock welfare
20 issues.

21 "In making up the handful if specific
22 medications, I purposely did not bring up any antibiotics,
23 which of course I should have if we really want to ensure
24 humane treatment. However, I did not, because they have

1 already been considered and effectively banned, due to the
2 NOP wording. However, am I mistaken in thinking that the
3 original OPA only disqualifies sub therapeutic use of
4 antibiotics and hormones? Therefore, is rare therapeutic
5 use of an antibiotic actually allowed? Which wields
6 authority, the original Act or the wording of the NOP?

7 "I brought up the other grey area medications
8 because no one else had even considered them, definitely
9 not the rule writers, yet they are an integral in
10 veterinary livestock practice. Whether or not farmers
11 actually know them is somewhat irrelevant, simply because
12 they are used so rarely that farmers would not think of
13 them in general, but then they look to their vet for help
14 when in a pinch and items such as flunixin, xylene and
15 buturphenol (phonetic) are brought up.

16 "I would like to take to task whoever wrote the
17 part of the preamble that requires removal of an animal
18 given appropriate treatment because of these two
19 sentences, referring to giving appropriate treatment, but
20 then requiring removal for doing so. It simply must be
21 removed if these medications are prohibited.

22 "I would like to remind the committees that
23 aspirin has never been approved by FDA for use in
24 livestock. It sounds crazy, but it's absolutely true.

1 The only approval for livestock bovine is flunixin.
2 Phenol bedizen has never been approved for bovines.
3 Dyferone (phonetic) was discontinued. Tylenol, Advin and
4 Motrin are also not approved, nor is caprophin and
5 ketaprophine (phonetic).

6 "I would like to say that flunixin is to
7 medically manage pain relief as buturphenol and xylene are
8 to surgical pain relief. Veterinarians do not do
9 surgeries with flunixin, just as they do not relieve fever
10 and inflammation with buturphenol (phonetic) and xylene.

11 "I take issue with reviewer number three of the
12 flunixin TAP review in the last paragraph of page 21 when
13 they say 'The idea implied an implication that organically
14 raised livestock might be made to suffer unnecessarily so
15 that owners might market them under a particular label is
16 sinister and coercive.' 'Sinister and coercive'? This is
17 not the jargon of a scientist.

18 "The reviewer goes on to say that 'By reducing
19 omega 6 fatty acids it will help limit susceptibility of
20 the herds to inflammation.'" Okay, time is up. The rest
21 of this then will be entered into the record in written
22 form.

23 MS. KOENIG: I'd like to have you continue
24 reading.

1 CHAIRPERSON CARTER: Okay. "This is not jargon
2 of a scientist. The reviewer goes on to say that 'By
3 reducing omega 6 fatty acids it will help limit
4 susceptibility of the herds to inflammation.' We are
5 talking about an individual animal that is experiencing
6 inflammatory pain due to an unforeseen problem. The
7 reviewer says that aspirin and hydroxophenol (phonetic)
8 compounds are effective and naturally occurring and can be
9 given to livestock as willow bark or water extracts.

10 "Let cows go chew on some willow bark when they
11 have a serious bout of coliform mastitis? To imply that
12 in an official TAP review is not just in the realm of the
13 believable. And once again, aspirin is not approved for
14 livestock, so all the comparisons between aspirin and
15 flunixin are moot.

16 "Even if aspirin was technically legal to give,
17 as flunixin already is by FDA, why must there be only one
18 synthetic way to treat an animal on rare occasions?

19 "This also concerns heparin versus sodium
20 citrate. Why must there be competition between the two?
21 I know as many veterinarians that use heparin to give
22 blood transfusions as veterinarians that use sodium
23 citrate. In any of these treatments, we are talking about
24 rare usage. There simply are no natural anticoagulants.

1 "I can think of other materials in organic
2 farming that would be considered dangerous and that are
3 used routinely, such as diesel fuel. How utterly
4 polluting. The exhaust makes me sick to my stomach. All
5 my farmers use horses for their field work. I know horses
6 are a viable option, but I do not suggest that only one or
7 the other are okay for organics. But perhaps diesel fuel
8 should be TAP reviewed.

9 "I guess I simply do not understand why rare use
10 of medicinals to relieve pain and suffering is under such
11 scrutiny. The 81 veterinarians who signed on to support
12 these medicines find it hard to believe the medications
13 are being questioned in the first place. I understand
14 that there is an official process and I hope that I can
15 help you understand these materials as a practitioner who
16 is 'out in the trenches.'

17 "I know that I have philosophized here, but I
18 really want to fully answer Ms. Koenig's questions to me.
19 Thank you, Hubert Karreman, DMV."

20 With that, we will close the public comment
21 period. It is now 9:00, technically, from the agenda.
22 It's 9:00 in Denver.

23 We will move into the Materials Review and NOSB
24 Action. First on the list is the crops. Owusu.

1 MR. BANDELE: Yesterday we discussed in detail
2 the petition for BHT and also the Committee's
3 recommendation to deal with not only BHT, but other inerts
4 in these mating disruption mechanisms. I also listed the
5 proposed recommendations to include those List 3 inerts.

6 You have a copy of that with the change that
7 Rose recommended the last sentence to read "May be applied
8 without restriction." I just move that the Board adopt
9 the recommendation of the Crops Committee concerning this
10 change and annotation to 205.601(f), of which have a copy.

11 CHAIRPERSON CARTER: A motion has been made. Is
12 there a second?

13 MS. KOENIG: Second.

14 CHAIRPERSON CARTER: It's been seconded by
15 Rosie. Continue, is there any discussion?

16 MS. BURTON: Could we just read it so those in
17 the audience that weren't here -- thank you.

18 MR. BANDELE: This is 205.601(f), this is what
19 we're proposing "Pheromones -- includes only EPA-exempt
20 pheromone products, EPA registered pheromone products with
21 no additional synthetic toxicants unless listed in this
22 section and any inert ingredients used in such pheromone
23 formulations that are not on EPA List 1, that is inerts of
24 toxicological concern or EPA List 2, that is potentially

1 toxic inerts, provided the pheromone products are limited
2 to passive polymer dispensers, pheromone products
3 containing only pheromone active ingredients listed in
4 this section and List 4 inerts may be applied without
5 restriction."

6 Which means they could be applied not only in
7 the mating disruption mechanisms, but other ways as well,
8 in terms of traps and things of this nature.

9 Yesterday I expressed appreciation to Emily for
10 drafting this and I'd like to do so again today, for those
11 who were not here.

12 CHAIRPERSON CARTER: Okay. Discussion on the
13 motion.

14 MS. BURTON: Just one question. Owusu, when we
15 talk about passive polymer dispensers, the polymer in that
16 sentence, are we limiting ourselves to the type of
17 application of this dispenser is any way?

18 MR. BANDELE: We tried to broaden that somewhat.
19 That phrase was used in lieu of plastic, Kim. It was
20 thought that maybe there might be some other type
21 materials that could be used in the future that could be
22 more biodegradable.

23 MS. BURTON: One of the petitioners had -- there
24 was an actual copy of an example of another passive style

1 of dispenser and it was like a flat sheet of film. That's
2 a polymer?

3 MS. KOENIG: That's a polymer.

4 MS. BURTON: I just want to make sure we're not
5 limiting ourselves in the annotation in any way. Okay.

6 CHAIRPERSON CARTER: George.

7 MR. SIEMON: I have the same exact question. I
8 wonder if anybody in the audience know of any limitations?
9 I hate to pass something that's going to have us right
10 into ourselves again with a restriction.

11 MS. BURTON: Could we ask the petitioner to come
12 forward?

13 MR. SIEMON: Well, anybody, if he's in the
14 audience. If anybody has any ideas or restrictions, I'm
15 worried this is too narrow.

16 MR. BANDELE: Right. As I said before,
17 originally the TAP reviewers recommended plastic. We're
18 trying to broader it more, not just plastic.

19 MR. SIEMON: I'm just asking is there any
20 awareness of any other uses that this would not cover?

21 CHAIRPERSON CARTER: Go ahead and identify
22 yourself for the record.

23 MR. JENKINS: I'm Jack Jenkins. I'm with
24 Pacific Biocontrol. We produce mating disruption

1 products. We're using polyethylene dispensers, so the
2 polymer certainly covers that. I've worked with other
3 manufacturer's dispensers and I think it covers all the
4 ones that I'm aware of. As far as we're concerned,
5 polymer is acceptable.

6 MR. BANDELE: I don't know whether you could
7 help with this question, but the TAP reviewers recommended
8 use in crops or livestock. We just dealt with crops in
9 this issue because no one was aware of any uses now in
10 livestock. Are there uses in livestock for those type of
11 dispensers, to your knowledge?

12 MR. JENKINS: To my knowledge, there are not,
13 although we're typically working with lepodroptin
14 pheromones, so that's mostly in crops. I'm not aware of
15 any that are used for animal protection.

16 CHAIRPERSON CARTER: Any more questions? Jim?

17 MR. RIDDLE: Yes, I have a question. Yesterday
18 we had some discussion about disposal, removal and
19 disposal, and it was indicated in the TAP review that the
20 label on the products has a statement or a requirement
21 about proper disposal. As a manufacturer, what's your
22 experience there, as far as the label information?

23 MR. JENKINS: Well, the disposal on our label is
24 pertaining to mostly what do you do with left over product

1 or what do you do with product that's applied to the
2 field.

3 In my experience, there's no grower that's going
4 to remove these dispensers from the orchard or from -- we
5 apply in different crops, too, in cotton, in vegetable
6 crops, and I know of no one that's going to go back into
7 the field, into the orchard and remove these dispensers.
8 It would be very costly to do so.

9 MR. RIDDLE: But the statement on the label I
10 guess is what I'm asking about. What does that typically
11 say?

12 MR. JENKINS: I'd have to get the label out to
13 see.

14 MR. RIDDLE: But you're saying that that really
15 applies to the products that aren't used, proper disposal
16 of left over.

17 MR. JENKINS: Or the packages themselves, yes.

18 MR. RIDDLE: Or the packages themselves, okay.

19 CHAIRPERSON CARTER: Further discussions,
20 questions? Becky?

21 MS. GOLDBURG: I just wanted to ask one more
22 question of Owusu to clarify why the terminology "passive
23 polymer dispensers" was used. My understanding is that
24 the key idea is that we want passive dispensers and they

1 happen, all the ones on the market now, to be polymers.

2 Why don't we just say passive dispensers? If
3 someone comes up with a metal dispenser in the future or
4 something else, I wouldn't want to limit that.

5 CHAIRPERSON CARTER: Is that an amendment?

6 MS. GOLDBURG: Well, maybe I can ask Owusu to
7 clarify the situation first before offering an amendment.

8 MR. BANDELE: I think your response may be a
9 better one, Becky, as I see it, because it would include
10 all of those present ones and someone might come up with
11 some other material in the future.

12 MS. GOLDBURG: Then I'll offer an amendment to
13 strike the word "polymer."

14 CHAIRPERSON CARTER: Is there a second to the
15 amendment? Nancy seconds. Discussion just on the
16 amendment, to strike the word "polymer."

17 MR. BANDELE: There were some other comments in
18 the audience I think related. Could we take those?

19 CHAIRPERSON CARTER: Only if they're called
20 forward by a member of the Board.

21 MR. BANDELE: I'm calling forward.

22 MR. RIDDLE: They're refusing to come.

23 MR. BANDELE: Oh, okay.

24 CHAIRPERSON CARTER: Is there further discussion

1 on the amendment to strike?

2 (No response.)

3 CHAIRPERSON CARTER: Seeing none, if you're
4 referred to vote -- first of all, on this issue, let me
5 ask if there is anybody that has a conflict of interest on
6 this particular issue?

7 (No response.)

8 CHAIRPERSON CARTER: There is none. Remember,
9 that all votes require a two-thirds majority. Beginning
10 with Cooper?

11 MS. COOPER: Yes.

12 CHAIRPERSON CARTER: Goldberg?

13 MS. GOLDBURG: Yes.

14 CHAIRPERSON CARTER: Holbrook?

15 MR. HOLBROOK: Yes.

16 CHAIRPERSON CARTER: King?

17 MR. KING: Yes.

18 CHAIRPERSON CARTER: Koenig?

19 MS. KOENIG: Yes.

20 CHAIRPERSON CARTER: Lacy?

21 MR. LACY: Yes.

22 CHAIRPERSON CARTER: O'Rell?

23 MR. O'RELL: Yes.

24 CHAIRPERSON CARTER: Ostiguy?

1 MS. OSTIGUY: Yes.

2 CHAIRPERSON CARTER: Riddle?

3 MR. RIDDLE: Yes.

4 CHAIRPERSON CARTER: Siemon?

5 MR. SIEMON: Yes.

6 CHAIRPERSON CARTER: Bandele?

7 MR. BANDELE: Yes.

8 CHAIRPERSON CARTER: Burton?

9 MS. BURTON: Yes.

10 CHAIRPERSON CARTER: Caughlin?

11 MS. CAUGHLIN: Yes.

12 CHAIRPERSON CARTER: The Chair votes yes. The
13 word is stricken, so we're back to the motion as amended
14 now.

15 MR. SIEMON: I'd like to recognize Tom, if
16 that's okay.

17 MR. HARDING: Thank you, George, and Mr.
18 Chairman. I just want to remind the Board that although
19 this is --

20 CHAIRPERSON CARTER: Identify yourself, please.

21 MR. HARDING: Tom Harding, Agrisystems
22 International. This is not just a crops issue when it
23 comes to pheromones. We use pheromones in structural pest
24 management and we use pheromones in the livestock end of

1 this, so let's be very concerned about looking at the
2 broader picture. I agree with George.

3 CHAIRPERSON CARTER: Okay. Further discussion?

4 MR. SIEMON: As far as I can tell, even though
5 this is coming from the Crops Committee, this is about
6 pheromones and there's no restrictions beyond crops that I
7 can see in this.

8 CHAIRPERSON CARTER: Jim?

9 MR. RIDDLE: The only concern is it's being
10 placed in the list for crop materials. It hasn't been
11 reviewed for livestock or structural pest management. I
12 don't know that that's going to place any restrictions,
13 but that's the reality. That's where it's being placed.

14 MR. HARDING: Then I'm real concerned about
15 that, because it's the same issue about not touching the
16 food, et cetera, et cetera, et cetera. We need to make
17 this so it fits all three categories if that's the case.

18 CHAIRPERSON CARTER: Nancy?

19 MS. OSTIGUY: Could we have it look at by the
20 other appropriate committees? I'm not sure who is
21 appropriate, actually, for structural matters. I did
22 receive a phone call from a structural pest management
23 association, they are very interested in being able to
24 work with processors, et cetera, who need to have some

1 kind of structural pest management.

2 It's a generic question that I have of where
3 would something like this go to be looked at on the Board
4 for structural issues and do we need to have the specific
5 committees look at it or can we do things right now?

6 CHAIRPERSON CARTER: Owusu?

7 MR. BANDELE: I did want to point out I think
8 two of the reviewers, as I stated before, did recommend
9 crops or livestock.

10 CHAIRPERSON CARTER: Kim.

11 MS. BURTON: The comment about processing, right
12 now there's a separate section on pest management and thus
13 far we have not included materials under that for the
14 processing section.

15 CHAIRPERSON CARTER: Rose, then George.

16 MS. KOENIG: It's more for the manufacturer, I
17 forget the gentleman's name. On most pesticides, don't
18 they have specific use labels? Is it labeled for -- it
19 usually just has the pests. I know crops, I don't know
20 much about livestock and processing, but on crops you have
21 what types of crops it's labeled for. Are these things
22 labeled for uses other than in crop situations?

23 Because if the label doesn't allow it, it seems
24 like it would be a moot point to be adding it. I see the

1 utility of it, but how does the label again look.

2 MR. JENKINS: I'm Jack Jenkins, I'm with Pacific
3 Biocontrol. Most of the labels or the labels we deal with
4 list the crops. Specifically the insects that we're
5 dealing with, but also the crops. If there are amino
6 chemicals or pheromones used for control for livestock, I
7 think most of them are used in more of a mass trapping
8 type of scenario, which is not really regulated by the
9 EPA, I don't think. I don't know if I'm answering your
10 question or not.

11 CHAIRPERSON CARTER: Okay. Rick.

12 MR. WILLIAMS: Back in February we met with some
13 industry people on this very issue, I think it was the
14 exact same company, and as I recall, their concerns were
15 and the literature that they gave us pointed out that it
16 wasn't just lepodroptins (phonetic) that it was used for,
17 it was used for diptrens (phonetic), I think hymenoptrines
18 (phonetic) and maybe some others, so it does have a much
19 broader use than just for lepodroptrins.

20 CHAIRPERSON CARTER: Jim and then Rose.

21 MR. RIDDLE: I'd just like to ask Rick and
22 Barbara, we placed this on the crops list, which is how
23 it's been petitioned and everything. How does that relate
24 to its use in livestock production or in structural pest

1 management, because there is a reference in the processing
2 section pest management to the National List where it
3 talks about pest control agents, so what is your sense
4 there?

5 MR. WILLIAMS: In the case of processing,
6 there's the hierarchy of what you have to do and there is
7 no limits on any of the pesticides that can be used once
8 you get down to that limit, other than they cannot be used
9 in a way that would lead to any contact with the food.

10 So you could use any pesticide for inside of a
11 warehouse that is approved by the EPA, as long as you took
12 all of the organic food out of the warehouse. That is not
13 an issue here.

14 What is an issue is whether or not what you're
15 reviewing could be used in the barn as well as on the tree
16 and if you don't have it in both sections, then it's only
17 allowed in the one where you do have it. If you only
18 allow it for crops -- if you put it under the crops
19 section, the way the National List is structured, it could
20 only be used for crops. If you want it to be able to be
21 used for crops and livestock, you've got to put it into
22 both sections.

23 CHAIRPERSON CARTER: Owusu?

24 MR. BANDELE: Yes, I did remember one of the

1 persons that testified yesterday stated that they were not
2 very efficient on smaller operations, the pheromones traps
3 that is, and if that is true, then it probably would even
4 be less efficient inside of a building. I don't know,
5 this may be a moot point is what I'm saying.

6 CHAIRPERSON CARTER: George and then Rose.

7 MR. SIEMON: I'd like to make the friendly
8 amendment, or not friendly, whatever, to add this to 603,
9 whether that's 603(e) or whatever the appropriate one is.

10 CHAIRPERSON CARTER: An amendment has been made
11 to add to 603(e). Is there a second on --

12 MR. SIEMON: I'm not sure about the (e), that's
13 where I need help. To the livestock list.

14 CHAIRPERSON CARTER: To the National List of the
15 livestock. The amendment, I need a second before we can
16 have any further discussion.

17 MS. OSTIGUY: Second.

18 CHAIRPERSON CARTER: Nancy seconded it. Okay,
19 we're on for discussion on the amendment only.

20 MS. KOENIG: I have a discussion, if Robert
21 Torla would come up, since he's in the room now.

22 CHAIRPERSON CARTER: You have to go to the mike.

23 MS. KOENIG: On this question with the
24 livestock, this is on pheromones and we're looking at

1 perhaps extending that use from crops to animals, you
2 know, production. What is the EPA's role in those things?
3 If something is not labeled for use, a pheromone, for an
4 animal operation, would we be within EPA law to do that or
5 what would be your recommendation, in terms of that?

6 MR. TORLA: I'm trying to figure out exactly
7 what this is and how it's -- I walked in I guess right in
8 the middle, so what are we talking about exactly?

9 MS. KOENIG: Does somebody want to read the
10 annotation to him?

11 MR. WILLIAMS: No, not Emily. We can translate.

12 MS. BROWN ROSEN: Oh, okay.

13 MS. KOENIG: Let Emily read it.

14 CHAIRPERSON CARTER: I would like Owusu to read
15 the motion so he knows what we're talking about, okay?

16 MR. TORLA: But what is the material?

17 MS. KOENIG: Pheromone.

18 MR. TORLA: In general?

19 MS. KOENIG: In general. We're looking at --
20 since I asked the question, we're looking at pheromones in
21 general and there was an amendment on the table to allow
22 them for use, I think you helped with the wording of that
23 based on your recommendation, for crops.

24 I had asked one of the manufacturers of the

1 pheromones how their label read and he said it was
2 specifically to crops and specific insects. But the
3 question came up from the livestock people concerns that
4 should we place the use for the pheromone products in the
5 livestock list.

6 My question to you is do you have to have a
7 label that says livestock use to be able to do that or are
8 we doing the logical thing, in your opinion?

9 MR. TORLA: You'd have to have a label for
10 livestock use, yes. But with most pheromones, that should
11 be very easy to get.

12 MS. KOENIG: So we can put it on the list and
13 even if it doesn't, somebody could apply or add that to
14 their product.

15 MR. TORLA: Yes.

16 MS. KOENIG: Are you aware of pheromones that
17 are labeled for livestock? That's just a general
18 question.

19 MR. TORLA: I'm not aware of anything, which is
20 why I was saying what's going on here.

21 CHAIRPERSON CARTER: Further discussion on the
22 amendment only?

23 MR. SIEMON: I heard that we didn't have to deal
24 with the processing side earlier, that's why I didn't add

1 it, but Rick made it perfectly clear there's not a problem
2 there.

3 CHAIRPERSON CARTER: Further discussion on the
4 amendment? Jim?

5 MR. RIDDLE: Yes. I totally support the
6 amendment, but I am a bit concerned about our process,
7 because it was petitioned for crops, that's how the TAP
8 review was conducted and it was considered by the Crops
9 Committee.

10 The Livestock Committee really hasn't looked at
11 this and just all of a sudden here to add that -- on this
12 particular material, I support it, but in the larger view,
13 I hate doing that. I hate just making a decision without
14 proper study and without committee deliberation and
15 without the TAP directed to that use.

16 CHAIRPERSON CARTER: Personally, I would support
17 that this is a good decision, but a bad precedent. I
18 think we have Kim first, then Owusu and then George.

19 MS. BURTON: A comment, we're basically
20 approving an annotation to the pheromones, which have been
21 reviewed in the past and it's not really material-
22 specific. In this precedent I could support moving it
23 over to the livestock, especially the way it's being used
24 and as a passive dispenser.

1 CHAIRPERSON CARTER: Okay. Let's see, Owusu?

2 MR. BANDELE: I have no problem with it, outside
3 the fact that nobody can think of any cases in which it's
4 being used now and I'm just thinking about the precedent
5 for just adding something just in case it might happen as
6 an ongoing process.

7 There was a reason why we took out the word
8 "plastic," because we were trying to make it less narrow
9 and there may be some possibilities there, as has been
10 pointed. But in this case, I don't really see the
11 necessity for it, even though I don't have a major problem
12 with it. If we continue to do this, we could just make
13 the Rule bigger and bigger for no real reason.

14 CHAIRPERSON CARTER: George?

15 MR. SIEMON: I've just got to emphasize this
16 does not come in contact with any of the livestock or any
17 production. I just heard we could even use pesticides in
18 our milk houses.

19 This is -- I agree with all your arguments, but
20 let's get something done and move on here. This is just
21 common sense.

22 CHAIRPERSON CARTER: Okay. Nancy and then we're
23 going to move to vote on the amendment.

24 MS. OSTIGUY: I don't know about the current

1 availability or current use of pheromones in livestock. I
2 know there's a fair amount of research being done trying to
3 come up with ways to use pheromones for livestock
4 production, so it may not be something that's on the
5 market now, but they're trying.

6 CHAIRPERSON CARTER: All right. We're going to
7 vote on the amendment. The amendment is to undertake to
8 add this to the National List for Livestock. Holbrook?

9 MR. HOLBROOK: Yes.

10 CHAIRPERSON CARTER: King?

11 MR. KING: Yes.

12 CHAIRPERSON CARTER: Koenig?

13 MS. KOENIG: Can you come back to me? I need to
14 think a couple minutes.

15 CHAIRPERSON CARTER: Lacy?

16 MR. LACY: Yes.

17 CHAIRPERSON CARTER: O'Rell?

18 MR. O'RELL: Yes.

19 CHAIRPERSON CARTER: Ostiguy?

20 MS. OSTIGUY: Yes.

21 CHAIRPERSON CARTER: Riddle?

22 MR. RIDDLE: Abstain.

23 CHAIRPERSON CARTER: Siemon?

24 MR. SIEMON: Yes.

1 CHAIRPERSON CARTER: Bandele?
2 MR. BANDELE: Yes.
3 CHAIRPERSON CARTER: Burton?
4 MS. BURTON: Yes.
5 CHAIRPERSON CARTER: Caughlin?
6 MS. CAUGHLIN: Abstain.
7 CHAIRPERSON CARTER: Cooper?
8 MS. COOPER: Yes.
9 CHAIRPERSON CARTER: Goldberg?
10 MS. GOLDBURG: Abstain.
11 CHAIRPERSON CARTER: Koenig?
12 MS. KOENIG: I'm going to abstain also.
13 CHAIRPERSON CARTER: Carter votes yes so it
14 carries. Ten yeses, zero nos, four abstains, no recusals
15 and of course, remembering that under Roberts Rules of
16 Order, the abstentions are counted with the majority. It
17 is so annotated.
18 We're back to the motion now as amended.
19 Further discussion?
20 MR. BANDELE: Just a point of clarification. We
21 amended this, so that means that it's going to go in both
22 sections?
23 CHAIRPERSON CARTER: Yes.
24 MR. RIDDLE: We've made two amendments now.

1 CHAIRPERSON CARTER: Lacy?
2 MR. LACY: Yes.
3 CHAIRPERSON CARTER: O'Rell?
4 MR. O'RELL: Yes.
5 CHAIRPERSON CARTER: Ostiguy?
6 MS. OSTIGUY: Yes.
7 CHAIRPERSON CARTER: Riddle?
8 MR. RIDDLE: Yes.
9 CHAIRPERSON CARTER: Siemon?
10 MR. SIEMON: Yes.
11 CHAIRPERSON CARTER: Bandele?
12 MR. BANDELE: Yes.
13 CHAIRPERSON CARTER: Burton?
14 MS. BURTON: Yes.
15 CHAIRPERSON CARTER: Caughlin?
16 MS. CAUGHLIN: Yes.
17 CHAIRPERSON CARTER: Cooper?
18 MS. COOPER: Yes.
19 CHAIRPERSON CARTER: Goldberg?
20 MS. GOLDBURG: Yes.
21 CHAIRPERSON CARTER: Holbrook?
22 MR. HOLBROOK: Yes.
23 CHAIRPERSON CARTER: The Chair votes yes. It
24 passes 14 to nothing, no abstentions, no recusals. Next

1 item.

2 MR. BANDELE: The next item was the synthetic
3 potassium sulfate. Again, this one was discussed
4 yesterday, so at this point I'm just making a motion that
5 the material be considered synthetic. I guess we've
6 better do it one at a time, in terms of --

7 CHAIRPERSON CARTER: No. It's all one motion.
8 Prohibited synthetic would be your --

9 MR. BANDELE: All right. Prohibited synthetic
10 then.

11 CHAIRPERSON CARTER: Is there a second to the
12 motion?

13 MR. HOLBROOK: I'll second that.

14 CHAIRPERSON CARTER: Dennis Holbrook seconded.
15 Discussion on the motion? George?

16 MR. SIEMON: I just wanted to say the same thing
17 as yesterday, are we are pretty confident that there's
18 still natural ones still out there. Does anybody have the
19 expertise to give me that assurance? Emily? Commercially
20 available. I know there's potassium sulfates and the
21 industry has been making that decision all along, but now
22 I'm a little worried. Is this the one we've been calling
23 natural all along or is this the one we've been calling
24 synthetic?

1 MS. BROWN ROSEN: No, this is a completely
2 different process. The natural formula is still widely
3 available and it's on the OMRI List.

4 CHAIRPERSON CARTER: Further discussion?

5 (No response.)

6 CHAIRPERSON CARTER: Does anybody have a
7 conflict of interest they want to declare on this issue?

8 (No response.)

9 CHAIRPERSON CARTER: Seeing none, we are
10 prepared to vote then. Koenig?

11 MS. KOENIG: Yes.

12 CHAIRPERSON CARTER: Lacy?

13 MR. LACY: Yes.

14 CHAIRPERSON CARTER: O'Rell?

15 MR. O'RELL: Yes.

16 CHAIRPERSON CARTER: Ostiguy?

17 MS. OSTIGUY: Yes.

18 CHAIRPERSON CARTER: Riddle?

19 MR. RIDDLE: Yes.

20 CHAIRPERSON CARTER: Siemon?

21 MR. SIEMON: Yes.

22 CHAIRPERSON CARTER: Bandele?

23 MR. BANDELE: Yes.

24 CHAIRPERSON CARTER: Burton?

1 MS. BURTON: Yes.

2 CHAIRPERSON CARTER: Caughlin?

3 MS. CAUGHLIN: Yes.

4 CHAIRPERSON CARTER: Cooper?

5 MS. BURTON: She's out of the room.

6 MR. WILLIAMS: Absent.

7 CHAIRPERSON CARTER: Goldberg?

8 MS. GOLDBURG: Yes.

9 CHAIRPERSON CARTER: Holbrook?

10 MR. HOLBROOK: Yes.

11 CHAIRPERSON CARTER: King?

12 MR. KING: Yes.

13 CHAIRPERSON CARTER: Chair votes yes. It

14 carries, 13 for, no against, no abstentions, one absence.

15 Okay. Owusu, go ahead.

16 MR. BANDELE: And the final material is the 1,4

17 dimethylnaphthalene, the synthetic form and also the

18 naturally occurring forms as was discussed yesterday. At

19 this point, I'm just recommending that this form of 1,4

20 dimethylnaphthalene be considered a prohibited synthetic.

21 CHAIRPERSON CARTER: A motion is on the table to

22 list it as a prohibited synthetic. Is there a second?

23 MS. KOENIG: Second.

24 CHAIRPERSON CARTER: Rose seconds. Discussion

1 on the motion?

2 MR. SIEMON: My question is we have quite a bit
3 of input from producers on how this was necessarily and we
4 seem to be weighing quite heavily your person who says
5 it's not and there are alternatives. I was wanting to ask
6 Pete, a lot of those people are from Oregon -- is Pete
7 here?

8 MR. GONZALEZ: Yes, I'm here.

9 MR. SIEMON: Pete, is there an alternative being
10 used or is there experimentation? Most of the response
11 has been from the northwest on this issue, maybe not your
12 producers, but a bunch of them said they really needed
13 this and now we've got one saying there is a viable
14 alternative. Are you aware in your certification?

15 MR. GONZALEZ: Pete Gonzalez, Oregon Trust. I
16 apologize, I was working on another project. What is the
17 subject matter?

18 MR. SIEMON: This 1,4 D, this potato storage
19 substance.

20 MR. BANDELE: 1,4 dimethylnaphthalene used to
21 inhibit browning in potato storage.

22 MR. GONZALEZ: Oh, okay.

23 MR. SIEMON: We got quite a bit of response from
24 growers in Oregon that it was needed and then we --

1 MR. GONZALEZ: Spoilage inhibitor?

2 MS. BURTON: Clarification on that?

3 CHAIRPERSON CARTER: Go ahead.

4 MS. BURTON: George, of all the comments that we
5 got, it's currently not being used at all. They all said
6 they would like to have it as a tool, but it's not
7 currently being used.

8 MR. SIEMON: All right. Is there an alternative
9 that they are using now? We're saying there is an
10 alternative, we're getting responses that they --

11 MR. GONZALEZ: Yes. That's not something
12 particularly familiar with, however we have never allowed
13 that kind of material in organic -- you know, under
14 organic certification for 20 years or whatever. I think
15 there are storage practices and similar things that
16 address it and there's probably a shorter life compared to
17 a treated material.

18 Actually, yes, it is a problem with the storage.
19 We have some processors who do potato products and they
20 can only run their organic product shortly after harvest.
21 They can't run all year, because potatoes don't hold to
22 produce snack foods all year.

23 CHAIRPERSON CARTER: Dennis?

24 MR. HOLBROOK: In the TAP review it indicated

1 CHAIRPERSON CARTER: Riddle?
2 MR. RIDDLE: Yes.
3 CHAIRPERSON CARTER: Siemon?
4 MR. SIEMON: I'll abstain.
5 CHAIRPERSON CARTER: Bandele?
6 MR. BANDELE: Yes.
7 CHAIRPERSON CARTER: Burton?
8 MS. BURTON: Yes.
9 CHAIRPERSON CARTER: Caughlin?
10 MS. CAUGHLIN: Yes.
11 CHAIRPERSON CARTER: Cooper? Absent. Goldberg?
12 MS. GOLDBURG: Yes.
13 CHAIRPERSON CARTER: Holbrook?
14 MR. HOLBROOK: Yes.
15 CHAIRPERSON CARTER: King?
16 MR. KING: Yes.
17 CHAIRPERSON CARTER: Koenig?
18 MS. KOENIG: Yes.
19 CHAIRPERSON CARTER: Lacy?
20 MR. LACY: Yes.
21 CHAIRPERSON CARTER: The Chair votes yes. It
22 passes then 12 for, zero no, one abstention, one absent.
23 Also, just for the purpose of the record, Ann did inform
24 us previous to the Board that prior to setting the agenda

1 for this meeting, she did have a conflict for a few hours
2 in town here, so she's temporarily absent from the
3 meeting.

4 MR. BANDELE: That concludes the Crops period.

5 MR. SIEMON: I've got a question for Crops. We
6 were given the charge to identify problems in the material
7 world and come back with recommendations at this time and
8 we've heard a lot about Class 3 inerts here. Is it my
9 understanding that you all just elected to not deal with
10 this Class 3 problem we're hearing right now instead of
11 coming up with some recommendations?

12 We were given that charge at the last meeting to
13 identify problems in our area and this is a pretty big one
14 we're hearing.

15 MS. KOENIG: As I explained yesterday, because I
16 was the liaison, kind of selected I guess through the
17 Materials and it was approved at I don't remember what
18 Board meeting, that I would work with a small group of
19 people to get those lists of known formulated products to
20 EPA and Bob Torla is here, so maybe I can pass the buck to
21 him. He can maybe update us a little bit.

22 Some of the discussion that came up yesterday
23 also involved this and I was explaining how we were trying
24 to facilitate some of this action items between your

1 agency and the NOP. As of yesterday, I still was unclear
2 whether there would be lists of -- you know, what might
3 have progressed on those lists of products.

4 And I know you've been also under time
5 constraints, this is not your only project, so whatever
6 you could update us with would be helpful and maybe what
7 you foresee. There's also a producer in the room that had
8 some concerns regarding some of these List 3 inerts.

9 It's up to you. It might be helpful for you to
10 listen to his discussion on some of this to really point
11 out some of the pressing needs that growers feel. That's
12 up to you, if you'd like to listen to the grower, that's
13 your call, but if you could just give us some hopefully
14 words of wisdom or encouragement.

15 MR. SIEMON: And this is about threes going to
16 fours?

17 MS. KOENIG: Well, the whole area. These are --

18 MR. TORLA: There's a whole bunch of List 3's
19 that are used --

20 CHAIRPERSON CARTER: Identify yourself again for
21 the record.

22 MR. TORLA: I'm Bob Torla, Robert Torla from
23 EPA's Pesticide Program. I was given a list of a number
24 of products ranging through a few pheromones, through some

1 BT products to a whole bunch of other things. I did
2 manage to get a list of inerts together and we got some
3 information on them.

4 I came up with an idea that I guess people
5 didn't like because it was too risky, that was allowing
6 the threes, as long as they had food tolerances.

7 MS. KOENIG: Could you speak up? We can't hear
8 you.

9 MR. TORLA: I'm sorry. To allow List 3's as
10 long as they had a tolerance for use on foods.

11 MR. RIDDLE: Speak into the microphone.

12 MR. TORLA: Some people I guess had problems
13 with that and I can understand that, because allowing
14 those three list generally is a risky proposition, to be
15 blunt.

16 The other thing that I ran into is some of these
17 products had List 2 inerts, which in my view was no way,
18 but it's not my call.

19 That's as far as I've gotten. It would take
20 significant --

21 CHAIRPERSON CARTER: Could you hold the mike
22 right up to your mouth, because they're still having
23 problems.

24 MR. TORLA: Okay. It will take significant time

1 to go through and get some better idea of whether these
2 List 3's have a chance of moving to List 4, to be blunt.

3 CHAIRPERSON CARTER: Kim?

4 MS. BURTON: We had talked about this list that
5 was provided to you, that you could at least acknowledge
6 that they have been used in organic production in the past
7 or at least we could acknowledge that they've been used --

8 MR. TORLA: Somebody would have to make that
9 claim, I can't tell.

10 MS. BURTON: Correct. And that EPA was looking
11 at those for possibly -- to move them to Class 4. Am I
12 understanding this right? Or that you could look at
13 those?

14 MR. TORLA: I'm not sure how you could say that.
15 I'm in a different group, so I'm not officially looking
16 into moving them to Class 4. We're looking in the Bio
17 Pesticide Group to see what we could do. The Inerts Group
18 in our Registration Division is going crazy right now.
19 They're trying to get the stuff they have moved.

20 MS. BURTON: I guess what we are looking for, at
21 least some acknowledge that you have the list of
22 materials.

23 MR. TORLA: We do have the list.

24 MS. BURTON: That you have this list that's been

1 provided to you by USDA and OMRI.

2 MR. TORLA: Yes.

3 MS. KOENIG: Not just OMRI. Again, it was a
4 consensus.

5 MS. BURTON: Okay. The list of up to 15
6 materials; is that correct, Rosie?

7 MR. TORLA: It's about that. If there's more,
8 that's okay.

9 MS. BURTON: That you have this list and that we
10 acknowledge that these have been used in organic
11 production up to date.

12 MS. KOENIG: Let me clarify, Kim.

13 MS. BURTON: Okay.

14 MS. KOENIG: CTOF, Oregon -- sorry, Washington
15 State, OMRI and then consultations with some of the people
16 on the East Coast, but primarily those three organizations
17 have lists. They had an active materials process prior to
18 our process, so that's why those organizations were
19 identified, to find out historically what was on those
20 lists.

21 That's the basis. We didn't survey to find out
22 how many farmers are using them, but we know that they
23 have been used in organics.

24 MR. RIDDLE: Class 3.

1 MS. KOENIG: Well, those were the products that
2 they were aware of through their information that came
3 through on the formulations of those brands that were left
4 that contained List 3 inerts, minimally. Obviously, some
5 of them now may have other inerts.

6 Again, we didn't survey how many growers or
7 anything like that. That was a list that was provided and
8 then we just kind of informally went to people that we
9 knew in other areas that were going through to say okay,
10 is there anything else that you know that is of importance
11 to growers.

12 We feel that it's somewhat comprehensive, but we
13 only have a short amount of time as far as getting these
14 things together. But it certainly represents
15 organizations at least that have had an active materials
16 process.

17 We were again hoping that I guess EPA may have
18 been -- again, I know it's not your priority, but we were
19 hoping that maybe if there was any of them that you knew
20 like right away that had gone on to List 4, that maybe
21 could be something that would be pulled out.

22 We really, as a group, didn't -- because you I
23 guess e-mailed that on Friday or Thursday, as far as your
24 proposal in terms of that and I had already left on

1 Thursday.

2 MR. TORLA: Okay.

3 MS. KOENIG: So we don't have again the time
4 frame to discuss a proposal of that magnitude. I'm
5 certainly not comfortable in just saying that that's -- in
6 terms of time.

7 MR. TORLA: That's roughly where it is.

8 CHAIRPERSON CARTER: George -- oh, I'm sorry.

9 MR. TORLA: Can I ask a question? How important
10 is it for us to try to get a good feel for that and how
11 soon?

12 MS. KOENIG: We might be able to get the grower
13 to come out. We had a very passionate speaker a little
14 while ago.

15 MS. BURTON: Could you do it by tomorrow?

16 MS. BURTON: Can I just finish with my train of
17 thought with this list?

18 CHAIRPERSON CARTER: Yes, go ahead.

19 MS. BURTON: If there was any way to acknowledge
20 that the NOSB is working with EPA for resolution of these
21 materials, that they could be allowed until we come up
22 with that resolution. That's kind of how we would like to
23 address it as the Materials Committee and as a
24 recommendation.

1 MS. KOENIG: Well, I think that that's
2 stretching it, Kim. I think that that's -- I mean before
3 we say "we would like," who are you speaking for, "we"? I
4 think that that certainly is one alternative.

5 MS. BURTON: Right.

6 MS. KOENIG: And I'm not sure. Again, there are
7 other alternatives and just like with these other things,
8 I think these need thought. But certainly suggestions and
9 guidance is really key on those issues.

10 MR. TORLA: I was working most of Friday with
11 one of my chemists and we went through this list pretty
12 thoroughly, but we didn't have additional data beyond some
13 really limited stuff. That's why I come up with the thing
14 about the tolerance, because that says the Agency knows
15 something about their safety. Without tolerance, I'd say
16 no way.

17 But we don't know, I wouldn't want to guess as
18 to how many of these will get to List 4.

19 CHAIRPERSON CARTER: If I can, because we've had
20 some people waiting. George, you had your hand up
21 previously?

22 MR. SIEMON: Yes. Well, I just wanted to remind
23 the Board that this is a very different moment than our
24 other moments on the Board with October 20, so I think we

1 need a motion to allow Inert 3's in pesticides that are
2 allowed in food products, just like he said, so I'd like
3 to read a motion on that, if that's in order.

4 CHAIRPERSON CARTER: You can make a motion.

5 MR. SIEMON: All right. To allow Class 3 inerts
6 that have tolerance in food products to be used in crop
7 pesticides, if pesticides are not commercially available
8 using materials on the National List.

9 CHAIRPERSON CARTER: Repeat the motion, slowly.

10 MR. SIEMON: To allow Class 3 inerts that have
11 tolerance in food products to be used in crop pesticides,
12 if pesticides are not commercially available using
13 materials on the National List. Maybe I could word it
14 differently, but I'm doing this on the run here.

15 CHAIRPERSON CARTER: Okay. Is there a second to
16 the motion?

17 (No response.)

18 CHAIRPERSON CARTER: Is there a second to the
19 motion?

20 MR. BANDELE: I will second it, for the benefit
21 of discussion.

22 CHAIRPERSON CARTER: The motion has been
23 seconded.

24 MR. SIEMON: I was going to have motion --

1 CHAIRPERSON CARTER: Discussion only on the
2 motion.

3 MR. SIEMON: I was going to have a second motion
4 just about the prioritization and all that stuff, but
5 first we've got to see if there's any hope here.

6 CHAIRPERSON CARTER: Discussion? Mark.

7 MR. KING: Actually, this is part of the
8 discussion on the motion, but I have a question for him
9 concerning this. Is that all right?

10 CHAIRPERSON CARTER: As long as it's germane to
11 the motion and as long as it --

12 MR. KING: It is germane, trust me. We're
13 talking about List 3 and I've heard three references to
14 List 3 in this conversation. One is List 3 inerts that
15 have historic organic use. Two, List 3 inerts with food
16 tolerance or established food tolerances. And then the
17 third List 3's which might be part of this food tolerance
18 list, I'm assuming, they could potentially be moved to
19 List 4.

20 In your experience, can you differentiate
21 between those lists and are there similarities, are there
22 cross-overs, so on and so forth? In other words, what I'm
23 attempting to do is make a realistic carve out here, if
24 that makes sense.

1 MR. TORLA: Yes. I understand exactly what you
2 say, but I don't have the information to really answer, I
3 don't think. I don't think I have the information.

4 MS. CAUGHLIN: Did I understand you to say that
5 a number of these also now have additional inerts or do
6 have additional inerts in some of them from List 2? Did I
7 hear that right?

8 MR. TORLA: In the list, some of them had List 2
9 inerts.

10 MS. CAUGHLIN: Do you have any recollection of
11 how many there were or particular ones that had no twos,
12 just dealing with three?

13 MR. TORLA: I'm really hesitant about talking
14 about List 2 and everything else because of CBI issues.

15 MS. CAUGHLIN: Because of CBI?

16 MR. TORLA: Confidential Business Information.

17 CHAIRPERSON CARTER: Barbara and then Kim.

18 MS. ROBINSON: Bob, we've met, I'm with USDA.

19 MR. TORLA: Yes.

20 MS. ROBINSON: Would it help if -- that's not
21 funny. Because of my question. Would it help if we write
22 -- do we need to make a formal request to EPA from AMS,
23 from USDA to ask for EPA's review or an expedited review
24 of List 3 inerts, beginning with List 3 inerts that have

1 food tolerances or something like that? Or the materials,
2 whatever, but I'm just looking for an appropriate
3 mechanism to make this collaborative process work faster.

4 MR. TORLA: Okay. How is the best way to do
5 this. There's several ways we could play this. We can do
6 it, the question is how is the easiest way to do it. It
7 sounds like what you want is for me to take this of inerts
8 and run it through whatever chain I need to do in my
9 organization to get it prioritized. I'm hearing this from
10 you and I can do that.

11 MS. ROBINSON: Okay.

12 MR. TORLA: I'd clearly have to go to my boss
13 and do it, but that's okay. We can do that, we can do
14 that fairly fast. I don't know, I can't make the answer
15 as to what will happen down at IV right now, but I can ask
16 and if I have a problem, I can clearly get back to you.

17 MS. ROBINSON: Okay. Why don't we try -- I'm
18 just saying we'll try to do something this week.

19 MS. KOENIG: I have a question here.

20 CHAIRPERSON CARTER: Wait a second. We have to
21 go in order here. Kim, then Dennis, then Rose.

22 MR. HOLBROOK: My question has already been
23 answered.

24 CHAIRPERSON CARTER: Okay. Kim?

1 MS. BURTON: We obviously have a petition
2 process where if any of these materials need to be
3 petitions, they could and be reviewed the proper way.
4 What we're coming up against is that there's just not
5 information out there to even do a thorough or adequate
6 TAP review.

7 You had made a brief comment a moment ago about
8 even you don't have sometimes enough material or
9 information on these materials. You know where they're
10 classed thus far, they are List 3's and you have enough
11 for food safety or what have you. But if were to go down
12 that TAP review road, we would end up in a road block is
13 what I'm -- I guess I'm assuming that because of --

14 MR. TORLA: I think that -- from memory of going
15 through these inerts and these different products, some of
16 them are used in a lot of different products, which
17 implies there probably is a reasonable amount of
18 information, if one had the time to dig into it and I know
19 that.

20 MR. RIDDLE: Please, into the microphone, the
21 crowd still can't hear you.

22 MR. TORLA: Okay. As I was saying, from memory
23 of going through inerts last week, there are some that are
24 used across a number of products and with food uses, we

1 would have a reasonable amount of information. There's
2 probably quite a bit of information out there, with time
3 to dig.

4 CHAIRPERSON CARTER: Let me ask Emily to come
5 forward on this and then we have Rose, the Owusu and then
6 Jim.

7 MS. BROWN ROSEN: Emily Brown Rosen with OMRI.
8 I just want to say that I've been working really hard with
9 Bob on this and also Cary Leifer (phonetic), who is in the
10 Inerts Division at EPA.

11 It is a very new process. We just threw out
12 this list of possible products to Bob and asked him to see
13 what he could do and he came back to me on Thursday with
14 just this idea of a food clearance use list of the inerts.

15 The Committee has not talked about it. I did
16 run it by Cary Leifer at Inerts, I think don't think Bob
17 had a chance to talk to him. I got a response back from
18 Cary, Cary said -- because there's a difference also here
19 between things that are totally cleared for use and things
20 with a tolerance level set and there's things that are
21 cleared with an exemption from tolerance. An exemption
22 from tolerance is a subset of totally cleared.

23 I wasn't sure what Bob meant, so I ran it by
24 Cary and I said Cary, I'm not sure what Bob means here, do

1 you think he means -- this is Cary's response to me. He
2 said "I personally have not spoken with Bob about this
3 proposal nor am I aware that anyone else is having any
4 discussion on this yet. My initial reaction would be
5 alone the lines of yours, in that this allowance would
6 include many substances which have yet to be fully
7 evaluated as to their safety.

8 "In fact, as you are probably aware, under FQPA
9 we are required to reassess all tolerance exemptions,
10 which includes about 800 tolerance exemptions for inerts,
11 by 2006."

12 So in that subset there's 800 substances, which
13 they will have to review by 2006. It's possible -- I
14 don't think you want to allow 800 substances without
15 having some idea what they are. It's possible if we had
16 disclosure on these particular inerts and they had maybe
17 an exemption from tolerance and we knew they were going to
18 be reviewed by 2006, that might be a reasonable thing to
19 do.

20 But we have to get all this information and put
21 it together, so I think we can certainly go somewhere with
22 this, but it's going to take a little more time.

23 CHAIRPERSON CARTER: Okay. Rose.

24 MS. KOENIG: I just wanted to get -- some of

1 that is the clarification. I think when you say "list,"
2 in terms of what Barbara was speaking about with Bob, I'm
3 assuming, Barbara, that you're starting with the products
4 that we've identified, because we need to prioritize how
5 much work.

6 I don't know if by getting -- and this is just
7 throwing out an idea, I don't know if we can within that
8 list even make another cut of priorities, if you think
9 that that is needed, in terms of your time.

10 What I'd like to get from you is what is the
11 time line? If we give you five, can you get it to us next
12 week? If we give you fifteen, it's going to take you six
13 months. What is doable, because for some of the growers
14 there's certainly a more immediate concern on certain
15 issues.

16 We may be able to refine the prioritization. We
17 need to know where this issue lies on your radar screen
18 and how much time in reality you're going to be able to
19 give us. In a vacuum, I don't think we're going to be
20 able to do much.

21 MR. TORLA: I really need to get and talk to
22 Cary Liefer and get some feel. I have the inerts, it's no
23 big deal to get them to him, but I need to talk to him
24 first, I didn't have time Thursday or Friday to do it. I

1 would start with this list and let us cull it down if we
2 have to.

3 CHAIRPERSON CARTER: Okay. I have Owusu, Jim,
4 Rick and then I'd like to vote on this.

5 MR. WILLIAMS: I'd like to say something too.

6 CHAIRPERSON CARTER: Okay. Then George is the
7 maker of the motion.

8 MR. BANDELE: In response to one question, I
9 think you said that you could not tell us which ones had
10 the List 4's because -- I'm sorry, List 2's, because of
11 Confidential Business Information.

12 MR. TORLA: I'm very hesitant to do that, yes.

13 MR. BANDELE: Could it be done the other way?
14 Could you tell us which don't have them?

15 MS. KOENIG: Is that relevant?

16 MR. TORLA: I can give you a list of products
17 that may be candidates.

18 MR. BANDELE: Okay.

19 CHAIRPERSON CARTER: Candidates for what? I'm
20 sorry.

21 MR. TORLA: Candidates for the List 4.

22 MS. KOENIG: Again, and just to remind the
23 Board, we have to work through the brands so that we know
24 what List 3's to identify, but we're not suggesting that

1 we're going to be looking at those brands. Again, when he
2 says "a list," it's going to be of the inerts, not the
3 brands.

4 MR. TORLA: That's right.

5 MS. KOENIG: It's irrelevant what product is
6 there or what List 2 is there. We just need to
7 concentrate on the List 3 because we know that --

8 MR. TORLA: Yes, that's the only practical way
9 to deal with it, you're right.

10 CHAIRPERSON CARTER: Jim.

11 MR. RIDDLE: To come back to the motion on the
12 floor, it's my understanding that it would really change
13 the inert classification in the National List on the fly
14 here and I'm really uncomfortable doing that.

15 There is a process under way, there's a list
16 that's been identified of historical use and in all due
17 respect, I oppose this motion. I think it's much better
18 to get that list in front of us, to know exactly what
19 we're talking about, to be thoughtful here and not just to
20 rush something forward in kind of a crisis mentality.

21 CHAIRPERSON CARTER: Okay. Rick.

22 MR. WILLIAMS: Bob, could you step back up to
23 the microphone, please? Just for the benefit of everyone
24 here, could you run through what essentially are the

1 titles or the uniqueness of the four different lists, just
2 for starters, then I'm going to have another follow up
3 question.

4 MR. TORLA: Okay. We have List 1, which we have
5 serious concerns with, if somebody wants it in a product,
6 it has to be listed on the label. We have List 2 products
7 that may have toxicological --

8 MR. WILLIAMS: You've got to speak up again.

9 MR. TORLA: We have List 2 products may have
10 toxicological concerns. There's a List 3 that says we
11 don't know, it's not quite that bad; we do have some
12 ideas. The one with the food use clearance is either an
13 exemption from tolerance or a numerical tolerance, we have
14 quite a bit of information, but it's not aimed organic.
15 Then we have List 4, which the Board of the Organic
16 Program has said they want to live with.

17 Now, and I hate to bring this up, but this was
18 in EPA's plans, what we intend to eventually do is move
19 all List 3's either to List 2 or List 4 and there will be
20 stuff on there eventually that we won't want.

21 MR. WILLIAMS: Some things will land on four,
22 which is the most benign.

23 MR. TORLA: Right.

24 MR. WILLIAMS: And some things will land on List

1 2 and might actually eventually move to List 1.

2 MR. TORLA: But some things will end up on List
3 4 that you people will not want to be allowed.

4 MR. WILLIAMS: And we've got a provision in the
5 regs that allow us to say no. Even though we've got the
6 blanket for the List 4, we also have the qualifier unless
7 specifically prohibited.

8 MR. TORLA: Right.

9 MR. WILLIAMS: Would you characterize -- maybe
10 this is an unfair question. I'm not going to ask it.
11 What I will do though is to remind everyone that when it
12 comes to inerts, if you turn to the National List
13 provisions within the Act, it reads "Is used in production
14 and contains synthetic inert ingredients that are not
15 classified by the Administrator of the Environmental
16 Protection Agency as inerts of toxicological concern."

17 I just my question is, and I'm not going to put
18 you on the spot to answer it, but a rhetorical question,
19 are List 3's truly substances of toxicological concern?
20 Back in '98 the Board said it was, do we still think that
21 way?

22 MR. TORLA: Actually, I can answer that.

23 MR. WILLIAMS: Okay. I just didn't want to put
24 you on the spot.

1 MR. TORLA: That's all right. Some List 3's
2 will be of toxicological concern and some won't and at
3 this stage we don't know.

4 MR. WILLIAMS: All right.

5 CHAIRPERSON CARTER: Now I'm going to call on
6 George. Make your comment and then I want you to reread
7 your motion and we're going to vote on the motion.

8 MR. SIEMON: To follow up on that, I was relying
9 heavily in my motion about the food tolerance inerts. Are
10 those the ones that they do know about the toxicological?

11 MR. TORLA: It's possible some of those List
12 2's, those labeled food tolerances, will not go on List 4.

13 MR. SIEMON: But they still are approved for
14 food tolerance?

15 MR. TORLA: Yes.

16 MR. SIEMON: Food use. Human, direct use.

17 MR. TORLA: Right. Now, FQPA or what we call
18 FQPA in '96 tightened up the standards of food use, so
19 it's possible that when they review them, whether they do
20 it on schedule or expedited for the organic people, that
21 some of them will lose their tolerance, food tolerance
22 position.

23 CHAIRPERSON CARTER: All right. I know there
24 are still folks that want to weigh in on this, but I'm

1 going to ask you to reread the motion, unless there's a
2 motion to continue this discussion.

3 MR. KING: I move to continue discussion.

4 CHAIRPERSON CARTER: Motion to continue
5 discussion.

6 MR. WILLIAMS: Second.

7 CHAIRPERSON CARTER: Seconded. Let's do this by
8 voice. All in favor say aye.

9 (Ayes)

10 CHAIRPERSON CARTER: Opposed, same sign.

11 (No response.)

12 CHAIRPERSON CARTER: All right. The motion
13 carries, the discussion can continue. Rose is first and
14 then Mark.

15 MS. KOENIG: I've got a question for Bob. Maybe
16 it's better that he defines it. I think there's something
17 about the word "inert" that makes people think it's
18 benign.

19 Can you give us an idea of why it's a concern?
20 Like how much percent can the inert ingredient actually be
21 at a larger concentration than the active ingredient in
22 these products?

23 MR. TORLA: Ask that again.

24 MS. KOENIG: What I'm saying is even though it

1 says "inert" and even though these List 3 inerts -- I just
2 want the Board to -- I'm not sure if everyone understands
3 the concept of an inert.

4 What I was saying, are there inerts in products
5 that actually -- there's more of an inert of that --

6 MR. TORLA: Than the active?

7 MS. KOENIG: -- List 3 inert than actually the
8 active ingredient?

9 MR. TORLA: Oh, yes. That's frequent.

10 MS. KOENIG: So "inert" does not mean minute.

11 MR. TORLA: No.

12 MS. KOENIG: I just wanted it to be clear for
13 both the audience and the Board.

14 MR. TORLA: And also, "inert" doesn't
15 necessarily mean inert.

16 MS. KOENIG: And it doesn't mean inactive.

17 MR. TORLA: That's right.

18 MS. KOENIG: It can be active, but not --

19 MR. TORLA: It be active on the pests. It could
20 have some properties, that's right.

21 MS. KOENIG: Thank you.

22 CHAIRPERSON CARTER: Mark is next, then Jim.

23 MR. KING: I almost forgot what my question was.

24 Now, these categories within List 3 that we've talked

1 about, not officially with EPA, but for the context of
2 today. One is List 3's that have either food approval or
3 food tolerances. Then you said that there are some that
4 you believe will be moved to List 4 that are in this
5 category and then some that either haven't been recognized
6 or reviewed yet and then some that probably won't.

7 Can you give us an idea of there relationship?
8 Specifically, approximately how many would be in List 3
9 with food tolerances that could potentially, in general,
10 be moved to List 4?

11 MR. TORLA: I don't want to be guessing. I'm
12 relying on two of us sitting down with limited information
13 and we said a couple, but you're asking --

14 MR. KING: I'm not trying to pinpoint you, but
15 just trying to assess how far along are we and really, how
16 much work are we talking about here as we are facing
17 industry members that are concerned about this?

18 MR. TORLA: Until I get to talk with Cary
19 Liefer's group more, I can't answer that.

20 MR. KING: Okay.

21 CHAIRPERSON CARTER: Jim.

22 MR. RIDDLE: In regards to the conversation that
23 Barbara and you just had, the comments that you're
24 certainly willing to prioritize this list of historical

1 inerts, about 15 or 20 materials. I have a question then
2 for Rick or Barbara and that is instead of changing the
3 list, which I understand this motion would do, isn't it
4 possible to have a directive to certifiers that in the
5 interim, while these inerts are being reviewed, that these
6 could be treated as minor non-compliances that have
7 historical use? Is that reasonable if it's being
8 prioritized, the wheels are in motion?

9 To me, that's a lot more preferable than
10 changing the list itself.

11 MR. WILLIAMS: You're asking me to violate the
12 regulations. No, it's not a minor non-compliance because
13 the only inerts that the National List currently allows
14 are List 4. If you're telling me to tell people List 3's
15 are prohibited but just go ahead and do it, you're asking
16 me to give a blanket approval to violate the regulations
17 and the attorneys won't allow me to do that. Barbara
18 won't allow me to do it. I won't allow anybody on staff
19 to do it.

20 You have to take action on List 3 or, in the
21 alternative, we will be forced to go back and talk to the
22 attorneys and see if there's something that we can do on
23 that and make it as a pending Rule Making change.

24 CHAIRPERSON CARTER: Rick, you had your hand up

1 in your own right.

2 MR. WILLIAMS: Yes.

3 CHAIRPERSON CARTER: You're next on the list.

4 MR. WILLIAMS: Bob, even if the selected few
5 were recognized as okay, is there any way that a farmer go
6 to into the farm supply store, pick a product up off the
7 shelf and know that the handful of List 3's that are
8 approved are the only inerts in this product? Can he do
9 that?

10 MR. TORLA: No. Well, no unless, and there's
11 very few people that do it, unless they have their inerts
12 listed in their products. Somebody can list all the
13 inerts, but very few do.

14 MR. WILLIAMS: But like could they do it on
15 Tuesday with the current label instruction the way it is?

16 MR. TORLA: That's highly unlikely.

17 CHAIRPERSON CARTER: I've got George, Rose and
18 then Kim.

19 MR. SIEMON: I just want to bring up some points
20 here. This is an old issue, we've dealt with this before.
21 When we went to Class 4's only, we then said people can
22 petition Class 3's. I think we've heard there's been a
23 failure of communication about that and there's been a
24 failure to get those petitions in here.

1 This is an old issue, but the reason we stopped
2 at four is to let people petition threes. We've heard now
3 it's not a minor thing, it's a major thing. We've heard
4 it's not even on the label, so producers don't even know
5 this. We've heard that it's been affected for direct use
6 in humans.

7 But we're not talking about a secondary use that
8 goes through another biological process. My motion has
9 commercially available in it as well.

10 We've also heard that somebody moved the threes
11 to fours, we'd be all right. I think it's just time to be
12 decisive here and enable our industry to move on. We're
13 going to keep dealing with this issue.

14 CHAIRPERSON CARTER: Okay. Rose and then Kim.

15 MS. KOENIG: I'm going to try to get black and
16 white. I'm not trying to say this is what you're going to
17 pass, but what Rick is basically saying for the audience
18 is that the Board has a couple of decisions to make.

19 We can leave things status quo, which I think
20 some people are comfortable with, which means that
21 certainly this list of 15 or 20 products, some of which
22 farmers depend on, are not going to be available until
23 perhaps this gets resolved. Very conservative, I think it
24 goes with the flow of things.

1 What Rick is suggesting, and I'm not saying he's
2 supporting it, although I don't know where he's coming
3 from based on that other comment, the other is you can say
4 let's look at all the List 3's and let's just say that you
5 can make either a category, perhaps like Bob says, where
6 food grade List 3's are allowed or you may just want to
7 say all of List 3's are allowed.

8 Then we have to live with the fact that there's
9 going to be List 3's that may come to List 2's and how is
10 that going to be perceived by the public. These are the
11 two positions.

12 Really, on this issue there is not much middle
13 ground at this point, other than going back to the
14 Committee, which I think I support, I know I support, and
15 unfortunately, growers -- hopefully this is a priority
16 item now that we're going into October 21.

17 We've been patient, I think, as a Board saying
18 okay, we know that you need to get accreditation done, we
19 know that you've got your priorities up to October 21 and
20 I know that everything is not going to clear out and off
21 your table on October 21 and there's not going to be other
22 issues.

23 But what I hear from the audience and what I'm
24 seeing as a Board member, this is as important as

1 accreditation was to you four months ago when you didn't
2 want to have a Board meeting. For this Board and for
3 growers, this issue is very, very important and we need
4 EPA, we need the NOP to be identifying these products and
5 working to move them as quickly as they can to some kind
6 of resolution and keeping things status quo, but that's my
7 opinion.

8 CHAIRPERSON CARTER: Okay. Kim.

9 MS. BURTON: Barbara, this Board has passed a
10 Recommendation that any material that has been forwarded
11 for a technical review be allowed for use until a
12 determination is made as a Recommendation to the
13 Secretary.

14 I don't believe in that Recommendation we
15 specifically said a TAP by a contractor. I believe we
16 said has been forwarded for technical review. EPA is a
17 recognized entity to give technical advice to this board.
18 Could we look at this list that we have provided to them
19 as a list and say we do want more information on this and
20 allow it for use until a determination is made on these
21 materials?

22 MR. WILLIAMS: I really don't know the answer to
23 that one.

24 MR. SIEMON: Do you have that list with you,

1 someone?

2 MS. ROBINSON: Well, the list would not be
3 represented in the form of a TAP. What Kim is suggesting
4 is that we provided EPA with the list that they now have
5 of those List 3 inerts.

6 MS. BURTON: Correct. And --

7 MS. ROBINSON: So that represents the list, but
8 again, it's not a formal contractor TAP review.

9 MS. KOENIG: That's true, Rose, but if you read
10 your charge on reviewing materials, you are instructed to
11 get expertise from appropriate scientific bodies outside
12 this Board and EPA would certainly qualify in mind as an
13 appropriate scientific body outside of this Board.

14 Back to Kim's question, here's the answer: I
15 want to say yeah, let's go there, let's do it. I'm
16 looking at Rick saying can we?

17 MR. WILLIAMS: Well, I think that there's more
18 than just our saying yes, we can. There is another party
19 to this and we don't know what EPA's requirements would
20 be. I think that at the very least we would have to talk
21 to our attorneys to see if it is possible, then we would
22 have to talk to EPA's people to find out if they even go
23 there and even if it is possible for us to ask them, it
24 may not be possible under their charter to do it. I don't

1 know.

2 MR. TORLA: Let me say one thing, anyway. I
3 certainly would not view the review we did in the past
4 couple of days as being an expert review.

5 MR. WILLIAMS: Okay.

6 MR. TORLA: I did the best I could, but it's not
7 an expert review.

8 MR. WILLIAMS: But having this discussion to go
9 on without even injecting this comment a minute or so ago,
10 I still question that even if we could do this, what value
11 is it, the farmer could pick up the product and know.

12 MS. KOENIG: Can I make a motion to table this
13 until after lunch so we can all go think about it, discuss
14 it and come back? It seems like we're just running around
15 in circles and I would like to make that motion.

16 CHAIRPERSON CARTER: The motion has been made,
17 is there a second?

18 MR. KING: Second.

19 CHAIRPERSON CARTER: Motion to table until the
20 time certain, that time being after the lunch break.

21 MR. SIEMON: And I'll try to copy off my poor
22 writing to give to the group so they've got something to
23 look at.

24 CHAIRPERSON CARTER: Okay. The motion to table

1 being a significant motion, let's just go down the row
2 here real quick so we have it. Lacy?

3 MR. LACY: Yes.

4 CHAIRPERSON CARTER: O'Rell?

5 MR. O'RELL: Yes.

6 CHAIRPERSON CARTER: Ostiguy?

7 MS. OSTIGUY: Yes.

8 CHAIRPERSON CARTER: Riddle?

9 MR. RIDDLE: Yes.

10 CHAIRPERSON CARTER: Siemon?

11 MR. SIEMON: Yes.

12 CHAIRPERSON CARTER: Bandele?

13 MR. BANDELE: (No response.)

14 CHAIRPERSON CARTER: Burton?

15 MS. BURTON: Yes.

16 CHAIRPERSON CARTER: Caughlin?

17 MS. CAUGHLIN: Yes.

18 CHAIRPERSON CARTER: Cooper, absent. Goldberg?

19 MS. GOLDBURG: Yes.

20 CHAIRPERSON CARTER: Holbrook?

21 MR. HOLBROOK: Yes.

22 CHAIRPERSON CARTER: King?

23 MR. KING: Yes.

24 CHAIRPERSON CARTER: I can't even remember where

1 I started now.

2 MS. KOENIG: You didn't ask me, yes.

3 CHAIRPERSON CARTER: Okay. Carter votes yes.

4 This is tabled until after lunch. We will declare recess

5 until -- it is now five after 12:00, we will reconvene at

6 1:15.

7 (End of Morning Session)

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A F T E R N O O N S E S S I O N

7

1:30 p.m.

8

CHAIRPERSON CARTER: Let's reconvene here.

9

MR. SIEMON: Are we ready? I'd like to say we should put a time limit on this discussion.

11

CHAIRPERSON CARTER: We will dispense with this as quick as we can.

13

MR. SIEMON: I'm passing out the wording that I had earlier talked about. I do have some revision, honestly, but that's what's on the floor, so let's go with that. Pass it down.

17

CHAIRPERSON CARTER: The only motion that is on the table right now is a motion to allow Class 3 inerts that have a tolerance in food products to be used in crop pesticides if pesticides are not commercially available using materials on the National List. That is the motion that's on the table.

23

MR. SIEMON: I know that's the motion. I guess if I had to -- can I make a comment?

24

1 CHAIRPERSON CARTER: Go ahead, George, I'm
2 sorry.

3 MR. SIEMON: If I were to make my motion again,
4 I think I would have taken the "commercially available"
5 out, because that's kind of new territory, and put just
6 the two or three-year phasing in until we caught up with
7 ourselves. But the motion --

8 CHAIRPERSON CARTER: Go ahead.

9 MR. SIEMON: I guess I could make a friendly
10 motion to my own motion or somebody else has to do that?

11 CHAIRPERSON CARTER: Well, you can --

12 MS. ROBINSON: Rescind your motion and make a
13 new one.

14 CHAIRPERSON CARTER: Yes, you can rescind your
15 motion and make a new one, if you want.

16 MS. ROBINSON: That would be cleaner and easier.

17 CHAIRPERSON CARTER: Kim?

18 MS. BURTON: I would like to amend it, I'm just
19 trying to figure out how I can do that.

20 CHAIRPERSON CARTER: Do you want to amend it do
21 you just want to make a substitute motion?

22 MR. SIEMON: Yes, a substitute motion.

23 MS. BURTON: Oh. I'd like to make a substitute
24 motion. The NOSB recommendations that any List 3 inert

1 material forwarded for a technical review be allowed for
2 use until that material is approved or prohibited by the
3 Secretary of Agriculture.

4 MR. KING: Second.

5 CHAIRPERSON CARTER: The motion has been made by
6 Kim and seconded by Mark. The NOSB recommendations that
7 any List 3 inert material forwarded for a technical review
8 be allowed for use until that material is approved or
9 prohibited by the Secretary of Agriculture.

10 This is a substitute motion and completely
11 replaces the previous motion. If this passes, we don't
12 even vote on the other one, this is different from an
13 amendment. George.

14 MR. SIEMON: Is there any way you can have part
15 of that be some kind of minor compliance issue in the
16 short period of time until those Boards come in? Because
17 there might be a two-month period here where people are
18 lost or trapped.

19 MS. BURTON: Well, I did question that and the
20 NOP felt they could deal with that without it being in the
21 motion.

22 MR. SIEMON: I heard earlier Rick say he can't
23 go against his own rule.

24 CHAIRPERSON CARTER: Rick?

1 MR. WILLIAMS: I guess -- I'm not sure what's
2 going on right now. It seems to me that the motion that
3 Kim is offering is totally different from the motion that
4 was on the floor that George had presented.

5 CHAIRPERSON CARTER: It's a substitute. Do you
6 want to read it?

7 MR. SIEMON: But I'm just worried about this
8 short period of time between these materials between these
9 materials coming in for request, the major versus minor
10 compliance issue.

11 MS. BURTON: We've never --

12 MR. WILLIAMS: This is an issue that -- Kim's
13 motion, even if it passed, would have to be taken to the
14 attorneys to see if it's even legal for to see if it's
15 even legal for us to do that.

16 CHAIRPERSON CARTER: Thus the word
17 "recommendations." Owusu.

18 MR. BANDELE: What would happen if in the
19 interim the Board decided after the reviews are complete
20 the List 3's should not be on there. Does it still then
21 have to wait until the Secretary of Agriculture takes it
22 back off?

23 MR. SIEMON: We wouldn't forward them, I
24 wouldn't think.

1 MS. BURTON: It wouldn't --

2 MR. WILLIAMS: Ask the question again, please.

3 MR. BANDELE: As I understand the motion,
4 whatever List 3's we have forwarded, we're asking that
5 they be allowed until the Secretary either approves or
6 removes. Is that right, Kim?

7 I'm saying that in the interim, after we get the
8 reviews back, suppose we find a material that's not
9 appropriate. Then what?

10 MR. WILLIAMS: The only ones that this motion
11 would put forward are the ones that are already petitioned
12 and are under at least assigned for review.

13 MS. BURTON: Right. What he he's asking is that
14 say we get a technical review back and then the Board does
15 not forward that for addition on the National List, what
16 happens to the farmer or whoever it is that's using that
17 material.

18 MR. WILLIAMS: Okay.

19 MR. BANDELE: No, I'm not asking what happens to
20 the farmer, I'm saying then we have to wait then until the
21 Secretary removes it, even though we have already asked
22 the Secretary to allow it?

23 MR. WILLIAMS: Well, yes. If you're asking us
24 to allow it and it's okay to allow it, it would be put

1 onto that list that we're going to say that the Board has
2 made a recommendation of these. Then they would be able
3 to use it with a minor non-compliance.

4 If the Board then voted to allow it, it still
5 continues to be used as a minor non-compliance until the
6 rule making process is complete. But if the Board says
7 that it's not acceptable, then you would be -- we would
8 post it on there that the Board has acted saying it's not
9 acceptable and then people would have to stop using it.

10 CHAIRPERSON CARTER: Rose.

11 MS. KOENIG: We're discussing that motion?

12 CHAIRPERSON CARTER: Yes. That's the only thing
13 that's germane for discussion.

14 MS. KOENIG: I guess the clarification is
15 forwarded for technical review, a lot of this is just
16 really uncertain, because in terms of technical review,
17 we're dependent on the EPA to provide us with information,
18 but that isn't necessarily going to be a technical review.

19 So unless we set up criteria, I guess I'm really
20 uncomfortable making a motion requiring a certain process
21 that we have not necessarily established, because it's
22 different than our TAP process, Barbara.

23 CHAIRPERSON CARTER: Barbara, do you wish to
24 speak?

1 MS. ROBINSON: I'm sorry, I missed some of the
2 earlier conversation, but when I said that forwarding it
3 to EPA constitutes consulting with an appropriate
4 scientific body, I don't think you would have to consider
5 that to be the last word on the subject.

6 MS. KOENIG: Right.

7 MS. ROBINSON: You've opened the door, you've
8 started the process, it does not mean that a substance or
9 a material could not be reviewed further, because you
10 could consult additionally. This would be buying you some
11 time, keeping things moving and doing what you're charged
12 to do and keep the train from wrecking.

13 CHAIRPERSON CARTER: Okay. Further discussion,
14 sensing we're moving toward a vote here?

15 MS. KOENIG: Yeah, I need to discuss it more
16 then. So in terms of the way that motion was read aloud,
17 unless it's approved or prohibited by the Secretary of
18 Agriculture, since it's a different process -- just I
19 guess lay out what you see the process is, because I'm
20 just -- I can't vote on something unless I'm clear as to
21 what tasks are going to be outlined. What is the process?

22 MR. KING: I have a question that I think ties
23 into what I think you're trying to say and that is by
24 passing this motion, does this change any of the

1 evaluation criteria currently as stated in the Act?

2 MS. BURTON: No.

3 MS. KOENIG: But you're not necessarily -- so
4 you're saying you're going to take the criteria that a
5 normal TAP -- you're saying you're going to actually do a
6 TAP review --

7 MR. WILLIAMS: Oh, yes.

8 MS. KOENIG: -- on these inerts, is that what
9 I'm understanding?

10 CHAIRPERSON CARTER: Barbara, this is directed
11 to Barbara or Rick or Kim.

12 MS. BURTON: The way I see it, Rosie, would be
13 that we're passing this motion so that the EPA can take
14 this list of materials that we have given them and they
15 can come back and tell us whether or not they are going to
16 keep those on List 3 or move them to List 4.

17 At that time, it's just buying us that window.
18 If we want to have further technical papers done, then we
19 request a TAP, but at this point, I am recommending this
20 motion just so that it allows EPA to take that list and
21 recommend to us whether these would move to List 4 or stay
22 on List 3.

23 If they stay on List 3, then we recommend a TAP
24 review. But it's buying the time to allow them for use

1 until we figure out where they're actually going to be
2 categorized. That's my intent.

3 CHAIRPERSON CARTER: George.

4 MR. SIEMON: Just so I understand, you said
5 earlier that there was a motion earlier that once
6 something was referred forward, I wonder what the
7 difference between this and that one was.

8 MS. BURTON: Clarification on that motion. The
9 motion was only for materials that have already been
10 recommended by this Board for inclusion on the National
11 List. Or removal.

12 CHAIRPERSON CARTER: Jim.

13 MR. RIDDLE: I just want to speak in support of
14 this over the original motion. I think it's much more
15 limited in scope or narrow focus and it's consistent with
16 OFPA under the National List. The first requirement is
17 the Board shall review available information from EPA, et
18 cetera. So it's consistent with that legal frame work,
19 but it does keep the door open in the interim once that
20 review process has been started.

21 MR. SIEMON: Could you read the motion again?
22 I'd like to have answered again how it answers the
23 immediate -- next Tuesday's answer.

24 CHAIRPERSON CARTER: The motion is the NOSB

1 recommends that any List 3 inert material forwarded for a
2 technical review be allowed for use until that material is
3 approved or prohibited by the Secretary of Agriculture.

4 MR. SIEMON: Therefore, the fact that we've
5 given it to EPA already means it's forwarded?

6 MS. BURTON: Yes.

7 MR. SIEMON: So therefore, on Tuesday these
8 materials will still be allowed?

9 MS. BURTON: Yes.

10 MR. BANDELE: Pending the legal approval, right?

11 MS. KOENIG: Absent the list it's meaningless.

12 MR. BANDELE: No, no. Rick, did you not say you
13 have to check with the lawyers on this?

14 MR. WILLIAMS: Well, yes. We have to check with
15 the lawyers on it, but at the same time, we also need the
16 list that has supposedly been sent. Is there a list?

17 CHAIRPERSON CARTER: Rosie and then Nancy.

18 MS. KOENIG: I'll make a comment, then I'd like
19 to recognize Emily, because she's kind of helped on the
20 task force with this list. Don't forget, the list was
21 made with our intention of this process. The list was not
22 necessarily made with this motion at hand, because I think
23 we would have perhaps been even more comprehensive if we
24 would have known that this list would be determining

1 action that would have -- you know, that the Board would
2 have to follow and the USDA would have to follow.

3 I don't know how comfortable I -- I mean, I feel
4 like we've got probably a good majority of the products,
5 but I don't want to be blamed for saying you relied on the
6 list and mine wasn't on that, because that was not what we
7 were looking at. I am a little uncomfortable with just
8 calling it a list without somehow defining it or mandating
9 perhaps a refinement of that list or a process again upon
10 which that list is determined.

11 CHAIRPERSON CARTER: You asked for Emily to come
12 forward?

13 MS. KOENIG: I just wanted to get Emily's
14 opinion in terms of as being a member of that task force,
15 do you concur with that concept, that we really weren't
16 thinking of it as something that was going to be
17 necessarily 100 percent comprehensive?

18 MS. BROWN ROSEN: That's true. The list that we
19 have is a list of brand name products. We don't know what
20 the inerts are in them. EPA is trying to get us that
21 information. If you want the List 3's for that rating, we
22 have to get that back from EPA first before we can forward
23 it. I think it can be done, but it just can't happen
24 tomorrow.

1 MS. KOENIG: Again, some people on the Board had
2 asked me for the list of the products and what I explained
3 to the Board member was that we had requested the list
4 from our task force members. At least one of them wanted
5 to keep those brand names confidential because it was just
6 a process to get at those List 3 inerts, so I'm not
7 comfortable until I go back to those people that I
8 requested the information from, since they said it was
9 confidential, to actually say --

10 MS. BROWN ROSEN: We could pull out a list of
11 inerts and say these ones were recommended.

12 MS. KOENIG: Yes. We can pull the inerts list
13 out. I'm just saying when I'm talking about "the list," I
14 feel comfortable about pulling out those lists, but --

15 MS. BROWN ROSEN: Yes, that's what I'm saying.

16 CHAIRPERSON CARTER: Kim and then George.

17 MS. BURTON: I thought it was in that form
18 already. I don't think my motion limits it to a specific
19 list. It recognizes that we will provide EPA with a list.

20 MR. SIEMON: That's my question.

21 CHAIRPERSON CARTER: Let me just announce that
22 my intention, if this motion passes, is to appoint a task
23 force from this Board to work with EPA to expedite this
24 process.

1 MR. SIEMON: That was my question.

2 CHAIRPERSON CARTER: We will proceed to vote on
3 this motion then.

4 MS. KOENIG: Just let me get a clarification.
5 This list you're saying, based on what you're saying, is
6 one that has not been made, that you're going to assign a
7 task force to determine the list?

8 CHAIRPERSON CARTER: That's correct.

9 MS. KOENIG: I've got you.

10 CHAIRPERSON CARTER: Just for the purposes of
11 procedure here, is there anybody that has a conflict of
12 interest on this?

13 (No response.)

14 CHAIRPERSON CARTER: O'Rell?

15 MR. O'RELL: Yes.

16 CHAIRPERSON CARTER: Ostiguy?

17 MS. OSTIGUY: Yes.

18 CHAIRPERSON CARTER: Riddle?

19 MR. RIDDLE: Yes.

20 CHAIRPERSON CARTER: Siemon?

21 MR. SIEMON: Yes.

22 CHAIRPERSON CARTER: Bandele?

23 MR. BANDELE: Yes.

24 CHAIRPERSON CARTER: Burton?

1 MS. BURTON: Yes.

2 CHAIRPERSON CARTER: Caughlin?

3 MS. CAUGHLIN: Yes.

4 CHAIRPERSON CARTER: Cooper? Absent. Goldberg?

5 MS. GOLDBURG: Yes.

6 CHAIRPERSON CARTER: Holbrook?

7 MR. HOLBROOK: Yes.

8 CHAIRPERSON CARTER: King?

9 MR. KING: Yes.

10 CHAIRPERSON CARTER: Koenig?

11 MS. KOENIG: No.

12 CHAIRPERSON CARTER: Lacy?

13 MR. LACY: Yes.

14 CHAIRPERSON CARTER: The Chair votes yes. It
15 passes twelve to one, one absent, no abstentions, no
16 recusals and one of the yeses being kind of painful. This
17 is difficult.

18 Now, I said that I would intend to appoint a
19 task force and I would like particularly that Nancy, Kim
20 and Kevin work on a task force to expedite this.

21 MS. BURTON: Correct, and I would ask Rosie if
22 she -- she's been very involved in this.

23 CHAIRPERSON CARTER: Okay, and Rosie. I'm
24 sorry, I didn't mean to --

1 MS. KOENIG: That's okay.

2 CHAIRPERSON CARTER: I will let the task force
3 come forward with other recommendations as they want.
4 With that, let's move to Livestock Materials.

5 MS. BURTON: Another non-controversial one.

6 MR. SIEMON: No, this one is easy. We're just
7 doing materials now is what I understand from the agenda?

8 CHAIRPERSON CARTER: Yes.

9 MR. SIEMON: It's 9:00 a.m. in the morning.
10 Mineral oil, the Committee was not happy with the
11 supplementary information that we got, which is very
12 unfortunate. This is the second round with the TAPs, so
13 they are recommending that we defer the vote.

14 CHAIRPERSON CARTER: Okay.

15 MR. SIEMON: Unless anybody else has anything to
16 say, we'll move on.

17 (No response.)

18 MR. SIEMON: All right. The calcium propionate,
19 we did not get any information back and so it's the same
20 recommendation there again, even though there is
21 definitely a concern of where that leaves the community,
22 because one of the reasons why we stalled it was because
23 we knew it was an important decision, but we wanted to get
24 more information. Now we're leaving them in a gap now.

1 CHAIRPERSON CARTER: Barbara asked if calcium
2 propionate was at a TAP. The answer is no.

3 MR. SIEMON: I guess that was one of my
4 questions, whether it could continue to be allowed as it
5 is today until the final TAP comes in, for the sake of the
6 industry.

7 CHAIRPERSON CARTER: Kim?

8 MS. BURTON: There's some confusion on these
9 materials. All these materials, the six of them that are
10 on the agenda, have had TAP reviews done. They were
11 rejected, deferred, because we didn't have enough
12 information on them.

13 We went that information back to the contractor,
14 half of them we got information on, half of them we
15 didn't. We're still not happy with that information and
16 we're actually trying to resolve those issues now.

17 MR. SIEMON: We can actually make a decision,
18 it's just that it seems awkward or poor to make it when we
19 asked for more information. But I'm asking where we're
20 leaving the industry in this interim now. This is a
21 product presently used.

22 CHAIRPERSON CARTER: Go ahead, Nancy, loud
23 enough for the microphone.

24 MS. OSTIGUY: Didn't we just deal with this?

1 Because there's a TAP in process --

2 MS. KOENIG: No.

3 MS. OSTIGUY: Isn't this what Kim was referring
4 to?

5 MR. SIEMON: No, she said that if it's been
6 recommended by NOSB, that in the interim period we now
7 have -- this is the same basic issue, you all, just in a
8 new field. It's something that's being allowed, it's
9 under process and we don't have an information. It was
10 the sense of -- the Committee thought the Board would
11 stay.

12 CHAIRPERSON CARTER: Nancy?

13 MS. OSTIGUY: The only material that we are
14 actually going to be discussing, either the TAP was not
15 returned or that we are not returning it for a second time
16 is the flunixin.

17 Because the Board returned these and at least in
18 my opinion one of the reasons why we did return them for
19 additional information is that my sense of where the Board
20 was heading at the last meeting is without that additional
21 information, most, if not all of these, would have been
22 voted down.

23 I'm very concerned about trying to come up with
24 a way to say that these materials can continue to be used

1 until we make a decision, because my sense of the Board
2 was that the decision was going to be no and that makes me
3 uncomfortable.

4 MR. SIEMON: I hear you and that's true on some
5 of these, but on calcium propionate we did approve it
6 already for one use. We just wanted more information for
7 the second use. If I had to isolate any of them, that one
8 to me is somewhat different, because we have approved it
9 already for one use. It's just that the TAP was devoid of
10 information on the use we asked for, which --

11 MS. OSTIGUY: Which is why I say that the Board
12 was going to vote no on that second use.

13 CHAIRPERSON CARTER: Kim.

14 MS. OSTIGUY: I may be reading it wrong, but
15 that was my sense.

16 MS. BURTON: Right. I guess my charge to the
17 Livestock Committee after the deferral of the last TAP and
18 after getting this material in the form that it was and
19 the late notice was exactly to the Livestock, do you have
20 enough information to make a motion on these material. If
21 you do, if you have enough information in front of you to
22 make that motion, do it.

23 If you don't, then defer the material. I don't
24 know why we're going on this long discussion. I don't

1 think it's necessary. Either you make a recommendation or
2 you defer.

3 MR. SIEMON: Well, you obviously disagree with
4 me, because I'm trying to care for the industry out there
5 that's got an issue as of Wednesday.

6 CHAIRPERSON CARTER: Okay.

7 MR. WILLIAMS: Actually, as of Monday. Tuesday,
8 whatever day.

9 CHAIRPERSON CARTER: George needs to read the
10 Committee report and if somebody wants to make a motion,
11 then make a motion. Otherwise, let's move on.

12 MR. SIEMON: All right. We don't have ready the
13 next one, which is furosemide. Atropine we're sending
14 back. Flunixin we'd like to discuss. I have a copy right
15 here to send out on that one. These are already collated,
16 so just take both of these. There are two of them here,
17 I'll just hand them out now for later on today, whenever
18 we get to it.

19 I'll give time to get that down. Flunixin is
20 the one that we've heard so much testimony on by Hugh
21 Karreman, that was aspirin that we did approve in '95 was
22 a mistake and there is no aspirin approved for livestock,
23 this is the one that's commonly used.

24 We did ask for more information. We had

1 aspirin is not accepted.

2 MS. OSTIGUY: Aspirin they cannot use.

3 MR. BANDELE: Cannot use, so there was some
4 mistake in the reviewers about that.

5 MR. SIEMON: I'm sorry. The question was why
6 didn't the reviewers recommend it, right?

7 CHAIRPERSON CARTER: Yes.

8 MR. SIEMON: Can anybody help me out here? I'm
9 trying. It wasn't approved for cattle was one of the
10 reasons. It was approved for horses, but we dealt with
11 that last time about finding a way, because it was in the
12 FDA regulations already and our Rule, right? That was one
13 of the reasons. There was some confusion over that.

14 CHAIRPERSON CARTER: Nancy, go ahead.

15 MS. OSTIGUY: The main things that we were
16 asking for in the supplemental information, if you
17 remember, in September flunixin was tied to the brand name
18 Benamine (phonetic), which I gather is no longer even
19 available. That was one of the concerns, that we were
20 approving a brand name. That has disappeared.

21 Another one was issues on the excipients, which
22 we're going to be dealing with separately. A second item,
23 or third or fourth or whichever, status among the U.S.
24 Certifiers. They provided that information, it's allowed

1 by NOFA, which doesn't tell us which. It's not NOFA
2 New York or Vermont, so one of the NOFA's has a five-day
3 withhold. QAI does not approve it, PCO does, et cetera.
4 So some of the certifiers have already approved it.

5 The other item that we asked to have additional
6 information on or the other items were the Section 2119 of
7 OFPA, the seven items. They hadn't really addressed the
8 questions and they did and there was nothing significant
9 that was brought up in any of those.

10 CHAIRPERSON CARTER: George and then Rose.

11 MR. SIEMON: I think the main thing is because
12 aspirin was an alternative and as we found out, aspirin is
13 not an alternative. We passed aspirin in '95, so I think
14 this really is just correcting something from '95 that we
15 didn't do quite right and that's why they rejected it,
16 because aspirin was already approved.

17 I just read through it. Over and over I see
18 that in here.

19 CHAIRPERSON CARTER: Rose and then Owusu.

20 MS. KOENIG: This is not a common regarding the
21 product, it's more the process and I received these the
22 morning I came to this meeting and I have not had time to
23 sufficiently look through this, because we've had a lot of
24 other stuff on our plate.

1 Also, the public has not had a chance to comment
2 on this new additional information, although they have on
3 the other stuff.

4 I personally will not -- I'm just going to vote
5 no, because I'm not going to abstain, because I don't want
6 mine to go into a favorable category. I will ask the
7 Livestock Committee if you're willing to lose this product
8 over a no vote from me, because I'm not going to abstain
9 because I'm not going to go for a positive vote and I'm
10 sure there's other members that might feel the same way.

11 The choice is do you want to lose the whole
12 product because of uninformed information or do you want
13 to give us a little bit more time to process this
14 information?

15 CHAIRPERSON CARTER: Owusu?

16 MR. BANDELE: I saw some other concerns in here.
17 One was the possibility of the product persisting in
18 tissue and the other mentioned -- in addition to aspirin,
19 it mentioned some other compounds that are allowed, other
20 hydro frenal compounds. Is that true?

21 MS. OSTIGUY: Not allowed in organic systems,
22 no.

23 MR. SIEMON: According to Hugh's thing, this is
24 the only end set that was acceptable for this function.

1 MS. OSTIGUY: Yes, by veterinarians, but in
2 terms of -- there's nothing else within an organic system
3 that is okay.

4 MR. BANDELE: It says here related hydro frenal
5 compounds are effective and naturally occurring. That's
6 reviewer two. Over and beyond that, I share Rose's
7 sentiments on the whole issue.

8 CHAIRPERSON CARTER: While Nancy is look for
9 that, Jim.

10 MR. RIDDLE: I appreciate where Rose and Owusu
11 are coming from and we got this supplemental information
12 quite late, but I am on the Livestock Committee, so I did
13 read it and put it on my -- towards the top of the stack
14 and did get some additional information, especially the
15 current status amongst certifying agents.

16 That certainly gave me a lot more confidence and
17 it was on our agenda, it's been posted. We have talked
18 about it before, we've had the full TAP before us and at
19 some point when we are following our processes, I think we
20 have to trust the committee that's charged with looking
21 into the details of that material.

22 I'll be voting for it. I think we have followed
23 our process and I hope that other members can trust the
24 review of the Livestock Committee on this.

1 CHAIRPERSON CARTER: Rose.

2 MS. KOENIG: I've got a question for Rick and it
3 may be an alternative process for some of these things
4 that we're not going to be able to resolve today perhaps.

5 Could there be or has there been ever a phone
6 call public meeting to discuss a single meeting or two
7 items where you can -- is there a format that you can put
8 it somehow on the web, inform the public and give a call
9 in number so that you could perhaps vote on something
10 without physically being there?

11 MR. WILLIAMS: We haven't done that in the past,
12 no.

13 MS. KOENIG: Could it be done?

14 MR. WILLIAMS: I don't know the answer to that.

15 MR. SIEMON: Rose, your concern is the public
16 has not seen this most recent information?

17 MS. KOENIG: My concern is I got it a day ago.
18 With all the other things, I don't mind looking at
19 something even if it's the last minute before I get to the
20 meeting, but when I get it on the day of the meeting, I
21 can't in good conscious vote on something I haven't even
22 had the time to synthesize.

23 CHAIRPERSON CARTER: Goldie?

24 MS. CAUGHLIN: at lunch we were discussing and

1 would you just come forward and share what you shared?

2 MS. BROWN ROSEN: I don't think I said anything
3 at lunch.

4 MS. CAUGHLIN: Well, you did. You had an
5 historical perspective.

6 MS. BROWN ROSEN: Doesn't anyone else remember?
7 There was a couple of public call in phone meetings, I
8 think it was '98 when the first Rule came out. There was
9 a phone number published. There was a public NOSB Board
10 meeting. Do you remember that?

11 MR. WILLIAMS: But were decisions made?

12 MS. CAUGHLIN: Yes. They were publicly notified
13 Federal Register Notice meetings.

14 MS. CAUGHLIN: And since we do not meet again
15 until May and since we are very likely going to be at
16 least a very split vote, it's something to consider.

17 MS. KOENIG: I would even be willing to do it
18 this coming week.

19 CHAIRPERSON CARTER: We're not going to have
20 public participation in a week.

21 MS. KOENIG: I mean as soon as it could be done.

22 CHAIRPERSON CARTER: George.

23 MR. SIEMON: I just wonder, has all the public
24 comment we've got so far been in favor of the substance?

1 I believe it has. To me, that's an important factor to
2 consider. They've already read the bulk of it and they've
3 been supporting us and the 81 veterinarians, too.

4 CHAIRPERSON CARTER: Nancy, have you --

5 MS. OSTIGUY: MS. BURTON: Point of order?

6 CHAIRPERSON CARTER: Nancy was looking for
7 something and I went on with other discussion while she
8 was reading.

9 MS. OSTIGUY: I have no specific ability to
10 answer some of the comments here. The aspirin that is
11 referred to we've already commented on in that it's not
12 approved for use in the animals that we're talking about.

13 As to the hydroxophernol compounds, I can't
14 respond to it.

15 MS. BURTON: Point of order?

16 CHAIRPERSON CARTER: Yes.

17 MS. BURTON: Wouldn't it be the proper thing for
18 Rosie to recommend a deferral at this, a new motion?
19 Otherwise, I would like to call the vote.

20 CHAIRPERSON CARTER: Okay. Unless I hear
21 anything else --

22 MS. KOENIG: I would like to make a -- do I have
23 to make a motion to do that?

24 MS. BURTON: Yes, please.

1 MS. KOENIG: I'd like to make a motion to defer
2 the material until a telephone meeting can be established.

3 CHAIRPERSON CARTER: Okay. A specific motion to
4 defer flunixin until a telephone meeting can be
5 established. Is there a second?

6 MR. BANDELE: I'll second it.

7 CHAIRPERSON CARTER: It has been moved and
8 seconded. The motion on the table is to defer. Any
9 discussion on the motion? Barbara.

10 MS. ROBINSON: I know you know this, but I'm
11 just going to say this again for the public's benefit and
12 for the Board. Any decisions that you make, any motions
13 or votes that you take are not cast in concrete, you will
14 -- there's an automatic sunset, you will be revisiting
15 these again.

16 MR. SIEMON: Should we have a --

17 CHAIRPERSON CARTER: Only on the question to
18 defer.

19 MR. SIEMON: Should we have an opinion about the
20 ability to do the phone call, since that seems to be part
21 of the motion? I hear we did it historically. A public
22 notice phone call where we're going to make a decision on
23 it is what I'm hearing and anybody can call in on their
24 own dime and participate. Is that what I'm hearing?

1 MR. WILLIAMS: Again, I think we can do it.

2 It's a --

3 MR. MESH: The way that the call was set up was
4 anybody could dial in, but only -- because I was sitting
5 on the Board as a certifier rep at that time, only those
6 people could talk. Everybody else could hear, but the
7 public couldn't talk and there was a limited number of
8 phone lines, so it was the first -- I want to say 30 or 50
9 people that called in that accessed the call.

10 CHAIRPERSON CARTER: Owusu.

11 MR. BANDELE: Even though I seconded the motion,
12 I'm not overly concerned about the -- based on George's
13 comment about most of the input so far being positive, but
14 my point is we were talking about getting more complete
15 TAPs and since there are some questions here, for example
16 accumulation in tissue and the possibility of naturally
17 occurring compounds, even though they may or may not
18 exist, the aspirin was wrong.

19 It seems to me that if I had additional
20 information about those, that's the thing that's really
21 hanging me up.

22 CHAIRPERSON CARTER: Okay. Any other discussion
23 on just the motion to defer?

24 (No response.)

1 CHAIRPERSON CARTER: Seeing no one raising their
2 hand, we will just vote. This is now simply a motion to
3 defer. This is not yes or no on the material. A yes vote
4 would then defer this material until a telephone
5 conference call meeting can be established. A no vote
6 will put it back on the table for approval or denial at
7 this meeting. I'm forgetting where I started last time
8 around, Ostiguy?

9 MS. OSTIGUY: No.

10 CHAIRPERSON CARTER: Riddle?

11 MR. RIDDLE: No.

12 CHAIRPERSON CARTER: Siemon?

13 MR. SIEMON: No.

14 CHAIRPERSON CARTER: Bandele?

15 MR. BANDELE: Yes.

16 CHAIRPERSON CARTER: Burton?

17 MS. BURTON: No.

18 CHAIRPERSON CARTER: Caughlin?

19 MS. CAUGHLIN: Yes.

20 CHAIRPERSON CARTER: Cooper, absent. Goldberg?

21 MS. GOLDBURG: No.

22 CHAIRPERSON CARTER: Holbrook?

23 MR. HOLBROOK: No.

24 CHAIRPERSON CARTER: King?

1 MR. KING: No.

2 CHAIRPERSON CARTER: Koenig?

3 MS. KOENIG: Yes.

4 CHAIRPERSON CARTER: Lacy?

5 MR. LACY: No.

6 CHAIRPERSON CARTER: O'Rell?

7 MR. O'RELL: No.

8 CHAIRPERSON CARTER: The Chair votes no. The
9 motion fails, ten noes, three ayes, one absent, no
10 abstentions.

11 MR. SIEMON: Can we call the question now?

12 CHAIRPERSON CARTER: The question now is on the
13 motion that's on the table, flunixin should be added to
14 205.603, synthetic substances allowed for use in organic
15 livestock production, with the following restrictions:
16 withhold time shall be double the FDA requirement.

17 Before we vote, does anybody have a conflict?
18 Other than inner conflict.

19 (No response.)

20 CHAIRPERSON CARTER: Okay. Riddle?

21 MR. RIDDLE: Yes.

22 CHAIRPERSON CARTER: Siemon?

23 MR. SIEMON: Yes.

24 CHAIRPERSON CARTER: Bandele?

1 MR. BANDELE: No.

2 CHAIRPERSON CARTER: Burton?

3 MS. BURTON: Yes.

4 CHAIRPERSON CARTER: Caughlin?

5 MS. CAUGHLIN: Yes.

6 CHAIRPERSON CARTER: Cooper, absent. Goldberg?

7 MS. GOLDBURG: Yes.

8 CHAIRPERSON CARTER: Holbrook?

9 MR. HOLBROOK: Yes.

10 CHAIRPERSON CARTER: King?

11 MR. KING: Yes.

12 CHAIRPERSON CARTER: Koenig?

13 MS. KOENIG: No.

14 CHAIRPERSON CARTER: Lacy?

15 MR. LACY: Yes.

16 CHAIRPERSON CARTER: O'Rell?

17 MR. O'RELL: Yes.

18 CHAIRPERSON CARTER: Ostiguy?

19 MS. OSTIGUY: Yes.

20 CHAIRPERSON CARTER: The Chair votes yes. The

21 motion carries, eleven yes, two no, one absent, no

22 abstentions, no recusals.

23 MR. SIEMON: After that, like we said --

24 MS. CAUGHLIN: May I have a question?

1 CHAIRPERSON CARTER: Okay. Goldie.

2 MS. CAUGHLIN: Following up on this, I want to
3 know whether or not we will still demand of our reviewers
4 the completion in a better form, since this really was a
5 vote under duress and as has been pointed out, it is not
6 necessarily the last word and it could -- there could be
7 still new information.

8 MR. SIEMON: I'll let Nancy speak to that, but
9 this is the one we didn't reject. I'm not saying we were
10 pleased with this.

11 MS. CAUGHLIN: Well, there's an awful lot of
12 stuff that's not --

13 MS. OSTIGUY: We could have rejected this one.

14 MS. ROBINSON: This is simply the best of the
15 lot. The others were so bad we couldn't --

16 MS. CAUGHLIN: My question is are we going to
17 ask them to do what we asked in the first place?

18 MS. OSTIGUY: We certainly could.

19 MR. SIEMON: The answer to that is yes.

20 MS. CAUGHLIN: Thank you.

21 MR. SIEMON: I just want to say the other
22 materials we don't have any new information, so we're
23 going to leave them be in the status quo. I will comment,
24 just for the public's sake, as far as I can read from what

1 we passed, the proteinated chelates are still -- are
2 available for use, as of the 21st, based on -- excuse me.

3 Based on what the NOP does with our original fed
4 additive recommendation, which we can't say, but those
5 materials are still, depending on what NOP does, allowed.

6 Then after that it looks like on the agenda
7 later you had the discussion about excipients, unless --

8 CHAIRPERSON CARTER: That's later on. All
9 right. So we are done with the materials of livestock.
10 Go ahead, Jim.

11 MR. RIDDLE: I had to prolong this, but this
12 proteinated chelates and our FDA recommendation, can we
13 get any feed back? This is really important. We did make
14 a recommendation back in Austin in May about various feed
15 ingredients and that and the proteinated chelates were on
16 that list already and also there was a TAP review in
17 motion.

18 So really, the outcome of the TAP review could
19 be to prohibit them, but it's our understanding, I just
20 want to get confirmation, that they are allowed.

21 MR. SIEMON: I've got the motion in front of me,
22 if anyone needs to --

23 CHAIRPERSON CARTER: For the public record,
24 Barbara Robinson has this to say.

1 MS. ROBINSON: I'm really sorry, because I
2 really am out of the loop on this, but you're on the
3 website, it's a recommendation of the Board. I am really
4 missing something here and I'm sorry. When Rick comes
5 back, I'll try to get --

6 CHAIRPERSON CARTER: So it's just a draft then,
7 if it's still open for public comment, even though we
8 passed it as a Board?

9 MR. SIEMON: What we passed was really a
10 clarification of what was already in the Rule of FDA
11 minerals and vitamins, so I think it's approved even
12 without ours, because of the wording in the Rule. I think
13 we're fine right now.

14 CHAIRPERSON CARTER: Kim.

15 MS. BURTON: One last comment before we leave
16 material review. Dave Carter and I have an appointment
17 tomorrow with Center for Food and Nutrition Policy at
18 8:30, so we're going to go pay them a visit to discuss our
19 TAP review, quality, et cetera, et cetera, just so
20 everybody knows, the public and the Board.

21 CHAIRPERSON CARTER: Okay. That's the rest of
22 the story behind my yes. Then we will move over to
23 Committee Action Items, leading off with the Accreditation
24 Committee, Mr. Riddle.

1 MR. RIDDLE: Okay. Back to Tab 7, the only item
2 that the Accreditation Committee is bringing forward for a
3 vote as a criteria for the certification of grower groups.

4 The Committee has met and there are a few
5 changes to the draft that you'll find in your book. If I
6 could just do that before I move it forward. We can go
7 through and make changes.

8 On the first page, at the very first sentence
9 under introduction, to delete the words at the end of the
10 first line, "who are in close proximity to one another."
11 No other changes on that page.

12 Then there are several changes to the
13 Recommendation itself. The first will be to delete the
14 first bullet point under Recommendation No. 1, so to
15 delete the words "The producers must be located in close
16 geographic proximity to one another." Delete that entire
17 line.

18 Then on the -- well, what was the third point
19 down, to insert some words to read "The group must be
20 managed as a legal entity under one central administration
21 that is uniform and consistent." So to insert the words
22 "as a legal entity." That would mean that the group would
23 need to be filed as an association, cooperative,
24 corporation, but some kind of legal structure.

1 On the next point down, just a typo, to insert
2 the word "in" after "participation." "participation in
3 the group."

4 Then the other change is to the item next to the
5 bottom that currently reads "Grower groups must have a
6 program of education to insure," to delete the words --

7 MS. BURTON: What a minute. Where?

8 CHAIRPERSON CARTER: The second to the last
9 bullet.

10 MR. RIDDLE: Yes, in that same section, second
11 to the last -- I'm sorry. "Grower groups must --"
12 currently it reads "have a program of education to
13 insure," so to delete the words "have a program of
14 education to ensure" and to replace that with the word
15 "ensure," with an "e."

16 It will now read "Grower groups must ensure that
17 all members understand the U.S. National Organic
18 Standard," et cetera.

19 Give those changes to the draft, I move it's
20 adoption.

21 CHAIRPERSON CARTER: A motion has been made to
22 move the criteria for certification of grower groups as
23 reviewed.

24 MR. SIEMON: I second that.

1 CHAIRPERSON CARTER: It has been seconded by
2 George. Discussion on the motion.

3 MR. SIEMON: I had a question of the certifiers
4 about the one legal identity. It's my understanding that
5 a lot of these grower groups in south central America are
6 not enfolded into one legal identity, they're tied by
7 their buyer network. The buyer is the umbrella. Am I
8 wrong? Is there a certifier that can answer that
9 question?

10 MR. RIDDLE: Pete, could you respond to this,
11 the issue of the legal entity, not legal identity, legal
12 entity.

13 MR. SIEMON: So you've added a new whole --
14 before it was one central administration, now you're
15 adding the legal entity?

16 MR. RIDDLE: Yes.

17 MR. GONZALEZ: Pete Gonzalez, Oregon Trust.
18 What was the specific question?

19 MR. SIEMON: You're going to have to pay more
20 attention if you're going to be in this room now.

21 MR. GONZALEZ: Are you asking me to leave?

22 MR. SIEMON: No, no. They just changed this
23 from one central administration of umbrella groups to one
24 legal entity over the umbrella group that they're all part

1 of, like a coop, a growers collective group, and I thought
2 a lot of these the buyer was the only glue that held them
3 together. Am I right in that question? Is that making
4 sense?

5 MR. GONZALEZ: In my experience they have been
6 locally legal entities that we've dealt with.

7 MR. SIEMON: All right. Okay.

8 CHAIRPERSON CARTER: Okay. Are we good to go?

9 (No response.)

10 CHAIRPERSON CARTER: On the motion to adopt this
11 recommendation as revised, beginning with Siemon?

12 MR. SIEMON: Yes.

13 CHAIRPERSON CARTER: Bandele?

14 MR. BANDELE: Yes.

15 CHAIRPERSON CARTER: Burton?

16 MS. BURTON: Yes.

17 CHAIRPERSON CARTER: Caughlin?

18 MS. CAUGHLIN: Yes.

19 CHAIRPERSON CARTER: Cooper?

20 MS. COOPER: Abstain.

21 CHAIRPERSON CARTER: Goldberg?

22 MS. GOLDBURG: Yes.

23 CHAIRPERSON CARTER: Holbrook?

24 MR. HOLBROOK: Yes.

1 CHAIRPERSON CARTER: King?
2 MR. KING: Yes.
3 CHAIRPERSON CARTER: Koenig?
4 MS. KOENIG: Yes.
5 CHAIRPERSON CARTER: Lacy?
6 MR. LACY: Yes.
7 CHAIRPERSON CARTER: O'Rell?
8 MR. O'RELL: Yes.
9 CHAIRPERSON CARTER: Ostiguy?
10 MS. OSTIGUY: Yes.
11 CHAIRPERSON CARTER: Riddle?
12 MR. RIDDLE: Yes.
13 CHAIRPERSON CARTER: The Chair votes yes. The
14 motion is carries thirteen to zero, one abstention, no
15 recusals.
16 MS. BURTON: Just can we make sure this gets
17 posted on the website for comment? It just came pretty
18 fast through the process.
19 MR. RIDDLE: What's that?
20 MS. BURTON: That it gets posted for public
21 comment.
22 MR. RIDDLE: It has been.
23 MS. BURTON: It has been?
24 MR. RIDDLE: Oh, yes. It's been through a full

1 round.

2 MS. BURTON: Okay. Where have I been?

3 CHAIRPERSON CARTER: Reviewing materials.

4 MR. RIDDLE: It came out of OSPA and was posted
5 for a full round, yes.

6 CHAIRPERSON CARTER: Okay. Anything else under
7 your Action Items?

8 MR. RIDDLE: No.

9 CHAIRPERSON CARTER: Then we are on to Livestock
10 Committee. George, you're back on.

11 MR. SIEMON: That was a short break. The first
12 one is dairy animal replacements. This has been a long
13 talked about issue and I tried to put this in the format
14 that we just passed yesterday.

15 There has been some confusion throughout this
16 about any restrictions the Rule might have, but this
17 Recommendation is what we're putting forward. It does
18 differ in part with the OTA Recommendation, but -- I'd
19 like to read the motion.

20 "On existing organic dairy farms all replacement
21 or expansion dairy animals shall be under continuous
22 organic management from the last third of gestation. It
23 is recommended that until October 21, 2005 animals shall
24 be under continuous organic management beginning no later

1 than one year prior to the milk or milk products that are
2 to be sold, labeled or represented as organic."

3 Basically, a stair step methodology. That's the
4 motion.

5 CHAIRPERSON CARTER: That's the motion. Is
6 there a second?

7 MS. OSTIGUY: Second.

8 CHAIRPERSON CARTER: It's been moved by George,
9 seconded by Nancy and we will get Katherine a copy of that
10 language. It's on the table for discussion. Kim.

11 MS. BURTON: We've heard a lot of public comment
12 back and forth, the differences between the NOSB
13 Recommendation and OTA's and NOFA, what have you. George,
14 can you just tell me, in this new draft have any of those
15 been addressed or are there still differences of opinions?

16 MR. SIEMON: The differences between this and
17 OTA is that number one, the time period that we gave was
18 until 2005 versus theirs was 2007, that's one. The second
19 one is ours is more lenient in that we did not require 100
20 percent organic feed by this in the time period of the
21 first year of life versus theirs did.

22 I don't want to say too much and confuse people,
23 but their required 100 percent organic feed from the last
24 third forward. This one, for just a few years, allows

1 that it starts with the one year prior to the sale of
2 organic milk. So it's actually more lenient in one way
3 and stricter in another way by a shorter time frame.

4 CHAIRPERSON CARTER: Okay.

5 MR. SIEMON: And I think it answers the
6 questions they had, which was primarily around medication
7 use, that was a primary concern and this deals with that.

8 CHAIRPERSON CARTER: Further discussion? Kevin.

9 MR. O'RELL: A question and maybe Rick can
10 comment, first of all I know it's gone through a lot of
11 changes in this dairy replacement issue. There's been
12 different things posted for public comment, we've had
13 public comment coming in. This is a complete turn around
14 from what the public has seen.

15 How does this -- is this an NOSB policy, a
16 clarification statement, is this a Rule change? What are
17 we proposing to do here?

18 MR. SIEMON: Like I said, the only confusion --
19 I don't know the right answer to that, so right now we're
20 just about putting forward what is the best thing. Does
21 Rick want to -- Bob?

22 CHAIRPERSON CARTER: Bob.

23 MR. TORLA: Are you submitting this as a
24 Recommendation to replace the --

1 MS. OSTIGUY: Just clarification.

2 MR. TORLA: This is a guidance document?

3 MR. SIEMON: Right. Well, we get such confused
4 messages, but that's what I want to be clear on when we're
5 talking about an issue. If it's a guidance document,
6 that's one thing. It hasn't had time for -- Katherine?

7 MS. DIMATTO: I was just going to point out --

8 CHAIRPERSON CARTER: Wait until you get there.

9 MS. DIMATTO: I thought you could hear me
10 anywhere.

11 CHAIRPERSON CARTER: Who is this?

12 MS. DIMATTO: Oh, I'm Katherine DiMatto of the
13 Organic Trade Association. The only difference, before we
14 continue the discussion, is that ours refers to more than
15 dairy animals. Our Recommendation was about production
16 animals, those animals whose by products would be not
17 edible, so fiber products, for instance, would fall into
18 that category, sheep, et cetera. That's the third
19 difference. As you continue to discuss it, that's --

20 MR. SIEMON: Good point. The other issue is we
21 have a conflict between in the Rule itself, as I said in
22 my script there, and in the Preamble versus the Rule.
23 There's a lot of conflicting information, so Kevin, that's
24 why I don't think it really is. I think it's a

1 clarification or a technical fix, personally.

2 MS. GOLDBURG: If I can comment --

3 CHAIRPERSON CARTER: Becky.

4 MS. GOLDBURG: This issue was discussed back and
5 forth on the Committee at some length and I think our
6 preference is if it's clarified as guidance, that's great,
7 but we don't have the legal capacity, we're not in the
8 Office of General Counsel of the Agency, so we're a little
9 bit unclear about whether we could go forward with a
10 guidance. That would be our preference.

11 MR. O'RELL: So the intent of the Livestock
12 Committee is that this is a guidance document?

13 MR. SIEMON: It's not my intent.

14 MS. GOLDBURG: It's not yours, you see it --

15 MR. SIEMON: Where is Rick, is Rick here? I
16 want this to be what they use.

17 MR. O'RELL: Because this gets changed all the
18 time in terms of the NOP recognizes.

19 CHAIRPERSON CARTER: Nancy first, then Bob if
20 you want to speak, you need to come to the mike.

21 MS. OSTIGUY: My feeling is that if this can be
22 a guidance document and this is then how the Rule is
23 interpreted and that interpretation carries enforcement,
24 fine. But if this means well, you can follow it if you'd

1 like to, then no, I'd like it to go for a Rule change. It
2 somewhat depends on how this is accepted.

3 MR. O'RELL: Can we ask for a clarification from
4 Rick?

5 CHAIRPERSON CARTER: Yes. Go ahead and ask your
6 question again.

7 MR. O'RELL: Rick, the question to the NOP is
8 the Livestock Committee Recommendation, where does it
9 stand in terms of is it a Policy Statement by the Board,
10 is it a guidance document or does it require Rule changing
11 to support the recommendation?

12 MR. WILLIAMS: I don't know the answer to that
13 one. I haven't looked at it close enough to know. In
14 back, Dave just handed me the new wording.

15 I will emphasize that there's a real sense of
16 consensus at all levels to have one unified replacement
17 standard. We've had that from every testimony. There is
18 confusion in the rule where there's two standards now for
19 replacements and everyone wants it to be fair and square
20 for all parties once they're in the program.

21 I don't think that requires a Rule change, to
22 say whoops, there's a conflict here, here's the unified
23 interpretation.

24 CHAIRPERSON CARTER: Let's take a ten-minute

1 break, then we'll come back and vote on this.

2 (A brief recess was taken.)

3 CHAIRPERSON CARTER: We're back in order.
4 Barbara, a request for a statement here?

5 MS. ROBINSON: I was asked on the break and we
6 did promise to do this, we will do it either tomorrow, in
7 our spare time, or Tuesday, a statement. We have a list
8 for all certifying agents, we will be sending a message to
9 all the certifying agents that all of the Board's
10 Recommendations with regard to materials may be used by
11 certifying agents as guidelines, good to go. Does that
12 make that clear to certifying agents?

13 MR. SIEMON: But can you --

14 MS. ROBINSON: It's only for materials, not any
15 Recommendation the Board has made.

16 MR. SIEMON: Is there any reason why you can't
17 clarify that the Recommendation is what their status is as
18 well?

19 MS. ROBINSON: Probably not by tomorrow or
20 Tuesday.

21 MR. SIEMON: But you could say until further
22 notice they're not enforceable unless we give you notice.

23 MS. ROBINSON: That's correct.

24 MR. SIEMON: Why not say it in a letter so it's

1 all clear.

2 MS. ROBINSON: All right. We'll say that, too.

3 CHAIRPERSON CARTER: Okay.

4 MS. ROBINSON: We should put that in writing.

5 MS. KOENIG: I have one more comment.

6 CHAIRPERSON CARTER: Go ahead, and then we're
7 well off-topic. We do have a motion on the table here.

8 MS. KOENIG: I just want to make a comment,
9 because I was just speaking to a grower. On the motion
10 that was passed regarding the task force and such, I think
11 it's imperative that it's either added to that or you get
12 to the lawyers as soon as possible, because many growers
13 could be in jeopardy with that kind of information out
14 there.

15 MS. ROBINSON: That is true, too. Right.

16 MR. RIDDLE: One more question on this. Will
17 this notice contain a list of what those materials are or
18 do you need that information?

19 MS. ROBINSON: Well, it would make things a lot
20 easier if we could.

21 MR. WILLIAMS: We've got the list.

22 MR. RIDDLE: You've got it?

23 MS. ROBINSON: Yes, we have it.

24 MR. RIDDLE: That would be great.

1 MR. WILLIAMS: Arthur, as I mentioned yesterday,
2 has the draft docket that he is pulling materials out of
3 to have the separate list that will go up on the web.
4 Bob, have you got a comment on that?

5 MR. POOLER: Bob Pooler, National Organic
6 Program. Every Recommendation that is made by this
7 Committee we already have it posted on the website.
8 Anybody can go to the website and see what Recommendations
9 were put forward by the NOSB. We don't need to have a
10 list, it already is on the website. Whether the material
11 approved or prohibited, the information is already there.

12 CHAIRPERSON CARTER: We've got a lot of
13 conversation going on out here. If you need to visit, go
14 out in the hall.

15 MR. WILLIAMS: Bob is correct, but as I have
16 said, we are putting together the separate list and that
17 list will be put on the website.

18 MR. RIDDLE: Of the actual materials, itemizing
19 the materials, right?

20 MR. WILLIAMS: We have put together a docket in
21 draft form. We are extracting the materials in that
22 document and putting them on a list. This list will
23 include all materials the Board has voted to have
24 recommended to the Secretary to have published in the

1 Federal Register. Yes, it will include all materials
2 approved.

3 CHAIRPERSON CARTER: Okay. We're done with that
4 discussion. Let's go back to we have a motion on the
5 table in regard to dairy replacement. George, bring us
6 back to speed here.

7 MR. WILLIAMS: So the Board understands, we had
8 recommended that the last half of this be the standard at
9 our meeting, in September that went out for notice. We
10 got feedback on the concerned medications and that's why
11 we put this interim standard in there.

12 The second part of this was our original
13 Recommendation that we had notice on since September, but
14 we have compromised it now to recognize the need for
15 medications for young stock until we go through a material
16 review, et cetera.

17 CHAIRPERSON CARTER: Okay. Kevin, you're the
18 one that had the --

19 MR. O'RELL: I still am just struggling to get a
20 position from the NOP in terms of as I read this, if it's
21 a guidance document, it's still -- after the end of 2005,
22 nothing changes in the Rule. How is this enforced, what
23 are we doing to try to clarify the situation that we have
24 today?

1 MR. WILLIAMS: Okay. When we took the break I
2 reviewed the document and there was also some discussion
3 here following that and as I read this document, it reads
4 to me like a Rule change. The Rule currently says that
5 you can bring on animals and put them through a 12-month
6 period and that is the exception to the last third of
7 gestation.

8 There is then another exception to the
9 exception, which is for the whole herd conversion. That
10 provides one feeding standard for the first nine months
11 and then another feeding standard for the last three
12 months and then the Rule problem kicks in with the (iii)
13 which essentially says if you took advantage of the whole
14 herd conversion, you cannot take advantage of the first
15 exception or exemption from the last third of gestation.

16 What we plan to do is to take what has been
17 submitted by OTA from the OTA and to take whatever this
18 Board recommends, whether it be identified as a Policy
19 Statement, a guidance document or as a need for a Rule
20 change, then we will take those two documents, we'll
21 analyze them, we'll analyze the Act, we'll analyze the
22 regs and we'll sit down with the attorneys and tell them
23 what we think it says and where we can go and then we'll
24 come back and tell you what we've concluded.

1 I can't tell you right now whether that will
2 come out with a guidance document or whether it will come
3 out with a Policy Statement or whether it will be a Rule
4 change. It may be a combination of all three. It may be
5 that some of what we're trying to accomplish we'll be able
6 to say that's a Rule change and we're going to have to go
7 through Rule change and do the public input.

8 But then again, we might be able to give you a
9 piece of it and say when it comes to this issue, we can
10 make an interpretation that this is the way it's to be
11 applied and if we do, then we will supply that to all the
12 certifying agents for them to follow as they do their
13 certifications.

14 MR. SIEMON: If I can kind of restate that, if
15 we want to have a unified replacement clause for all dairy
16 herds, we run into that same confusion question, Kevin.
17 There's no if you want a unified replacement clause,
18 because right now there's two, so we're up against that no
19 matter what we recommend if we're trying to unify it,
20 which is the one thing we all have a consensus on, that we
21 want it unified. It's kind of the same tough question no
22 matter what we do.

23 MR. WILLIAMS: Unless -- it's been explained and
24 the way that I understand this, it's not so much that you

1 can bring an animal in say at two years old and have it go
2 through a one year transition to provide milk. That's not
3 the problem so much as the fact that the farmer who is
4 raising their own expansion of the animals or replacement
5 animals, is put at a disadvantage, because they can't
6 provide their animal with medications during that 12-month
7 period that would exist before.

8 The way I understand dairy animals is that it
9 takes about two years before they start to give the milk,
10 so whereas one farmer who buys the replacement animal only
11 has to comply for 12 months, the dairy farmer who raises
12 the replacement animal has to comply for 24 months. The
13 question is can the organic farm raised dairy animal be
14 treated with medications for known health reasons during
15 that first 12 months.

16 That's part of what is coming out of the OTA
17 document and that is part of what we're going to talk to
18 the attorneys about, go back, look at the statutory
19 language that talks about the medications issues.

20 CHAIRPERSON CARTER: Kevin.

21 MR. O'RELL: So with that, the understanding is
22 that the OTA proposal will be considered well no matter
23 what we pass here, because as I understand it, the OTA
24 would require 100 percent organic feed, that's what the

1 OTA was asking for and this does not require 100 percent
2 organic feed.

3 MR. WILLIAMS: I didn't know that anybody was
4 trying to do away with the 100 percent organic feed for
5 the animals. The --

6 MR. SIEMON: Let me ask George then. This is
7 saying that you can -- there's two reasons --

8 MR. WILLIAMS: It does not require 100 percent
9 organic feed; is that correct, George?

10 MR. SIEMON: That's correct and that's for two
11 reasons. Number one, we just heard from Rick that those
12 herds that come in through the 12-month are already living
13 underneath that standard of 12 months. We already had
14 that under one of the interpretations of the Rule.

15 We're trying to get them all on the same page
16 here. It's a difficult situation, which way do you go.
17 On that one, that is absolutely true.

18 And number two, there's this really complicated
19 issue that this is about replacement animals coming into
20 the herd, which means to me when they have their calves
21 and start milking and there's a whole lot of animals out
22 there that do not qualify in the last two years with 100
23 percent organic feed, so there needs to be a window of
24 time for those animals to get on board.

1 Some programs already have been requiring from
2 last third, some have not. There's a phase in opportunity
3 for the age of the animal of two years once you start the
4 standard that's needed. This deals with that two-year
5 phase in to make the whole nation on a unified nation.

6 I just hear from New York they've been requiring
7 last third for two years, so their animals already would,
8 but another program has not been doing that and it would
9 be up two years before they would qualify.

10 I guess not two years, a year. Because
11 everybody has been under a year, relatively, so it would
12 be another year, excuse me. There needs to be the phase
13 in for a year.

14 CHAIRPERSON CARTER: Rick.

15 MR. WILLIAMS: The issue on the feed, we'll look
16 into it, but I'm not aware of anything, statutory or
17 through regulation, that would allow anything other than
18 100 percent organic feed. The only exception that is
19 provided to that is the whole herd conversion. Every
20 other animal has to be 100 percent organic feed.

21 MR. SIEMON: But Rick -- this is the wrong time
22 for the conversation, you've been saying all along that
23 the herds coming under the 12 months would only have to
24 qualify for 12 months for the replacement, therefore, they

1 could have used non-organic feed for the first 12 months
2 of their life. You've been real consistent on that
3 interpretation.

4 What I've said is that the animal that is
5 brought in from a non-organic source would have been fed
6 whatever they were fed and they were medicated whatever
7 way they were medicated and then they go through a 12-
8 month conversion period and that 12-month conversion
9 period is under organic management, which means 100
10 percent organic feed.

11 The only exception to that requirement for 100
12 percent organic feed through that transition period is if
13 you're bringing in a whole herd. All other animals are
14 100 percent organic feed.

15 CHAIRPERSON CARTER: Barbara.

16 MS. ROBINSON: You don't really want to go
17 there. You don't really want to open a discussion about
18 100 percent organic.

19 MR. SIEMON: This has been really frustrating,
20 because I've been trying to work with what I've been told
21 by you all's interpretation and now I'm hearing a
22 different one. That's fine. I'd like to change the
23 motion then.

24 MS. ROBINSON: The motion doesn't have anything

1 about feed in it.

2 MR. SIEMON: Yes, it does.

3 MR. WILLIAMS: That's right. The motion doesn't
4 say anything about feed.

5 MR. SIEMON: Well, it's for one year prior in
6 the last part. That does not imply anything about the
7 year prior to that. I'd be glad to change the motion, but
8 go ahead.

9 CHAIRPERSON CARTER: Okay. Rose.

10 MS. KOENIG: I was just going to recommend if he
11 needed more time, maybe we could go on to Crops and get
12 those two items out of the way and then go back, if he
13 thinks it needs more time.

14 MR. SIEMON: Well, my motion --

15 CHAIRPERSON CARTER: There's a motion on the
16 table. Do you declare a motion to table?

17 MS. KOENIG: Or defer. To table requires a
18 motion.

19 MR. SIEMON: Well, I'd rather do a substitute
20 motion and just have the first line be the substitute
21 motion.

22 CHAIRPERSON CARTER: The maker of the motion is
23 offering a substitute motion, which -- read the motion,
24 George.

1 MS. COOPER: Yes.

2 CHAIRPERSON CARTER: Goldberg?

3 MS. GOLDBURG: Yes.

4 CHAIRPERSON CARTER: Holbrook?

5 MR. HOLBROOK: Yes.

6 CHAIRPERSON CARTER: King?

7 MR. KING: Yes.

8 CHAIRPERSON CARTER: Koenig?

9 MS. KOENIG: I'm going to abstain.

10 CHAIRPERSON CARTER: Lacy?

11 MR. LACY: Yes.

12 CHAIRPERSON CARTER: O'Rell?

13 MR. O'RELL: No.

14 CHAIRPERSON CARTER: Ostiguy?

15 MS. OSTIGUY: Yes.

16 CHAIRPERSON CARTER: Riddle?

17 MR. RIDDLE: Yes.

18 CHAIRPERSON CARTER: Siemon?

19 MR. SIEMON: Yes.

20 CHAIRPERSON CARTER: The Chair votes yes. It

21 carries by a vote of ten yes, two no, two abstentions and

22 no absent.

23 MR. SIEMON: The next issue, I'd like to have

24 Nancy lead us through, if she would be so kind, about

1 excipients. That was handed out yesterday and has some
2 changes, but we didn't print up a new one, I believe.

3 MS. OSTIGUY: There were changes?

4 MR. SIEMON: No. There's a proposal for
5 pharmaceutical excipients in livestock treatment and
6 supplements.

7 MS. OSTIGUY: It's the same one that you were
8 looking at yesterday.

9 CHAIRPERSON CARTER: Okay. Proceed, Nancy.

10 MS. OSTIGUY: Actually --

11 MR. SIEMON: There you go. This is another
12 effort where we find like the incidentals in feed, the
13 inerts in pesticides, that our active ingredients we've
14 past are meaningless without passing a Rule that allows
15 the excipients, because again, just like all the other
16 ones, producers are not even aware they're in their
17 product.

18 This is really crucial to have our active
19 ingredients that we've already passed. To have them
20 available, this is a very crucial Recommendation.

21 MS. OSTIGUY: The Recommendation reads "The NOSB
22 recommends the addition of a new 205.603(h) to read as
23 follows: Excipients used in the manufacturing or found in
24 the finished product of drugs used in livestock treatments

1 are allowed unless specifically prohibited."

2 MR. SIEMON: I'll second.

3 CHAIRPERSON CARTER: Take your conversation out
4 into the hall, because there's a lot of background noise
5 here.

6 MR. SIEMON: I'll second that.

7 CHAIRPERSON CARTER: It's been moved and
8 seconded that NOSB recommends addition of anew 205.603(h)
9 to read excipients used in manufacturing or found in the
10 finished product of drugs used in livestock treatments are
11 allowed unless specifically prohibited. Discussion on the
12 motion. Rose, go ahead.

13 MS. KOENIG: Just in terms of some of the public
14 input that we had on the motion, I guess, was some other
15 annotations. I don't know, did your committee --

16 MS. OSTIGUY: Can you speak up, Rose?

17 MS. KOENIG: Sorry. There was some comment and
18 paper that was handed out to us during the public comment
19 period on these materials. Did the committee take a look
20 at those comments and recommendations and debate them or
21 consider them?

22 MS. OSTIGUY: Yes, we did, and it was
23 sufficiently late that I can't recall what the discussion
24 was. Can someone help?

1 MR. SIEMON: Well, first off, there's three that
2 were recommended, two were already part of the process.

3 Becky, can you help here?

4 MS. OSTIGUY: Can you remember?

5 MR. SIEMON: We spoke against this last night?

6 MS. OSTIGUY: I'm trying to remember. What Rose
7 is asking about are the recommendations that we received
8 from Emily.

9 MS. KOENIG: Right.

10 MS. GOLDBURG: I spoke against this last night
11 on two grounds. One was that it just created a whole lot
12 more work for us, but the other was that it was my
13 perception that we could not know what the excipients were
14 in many cases. However, according to Jim, I was wrong.

15 MR. SIEMON: Well, that takes care of it.

16 MS. GOLDBURG: Right.

17 MS. OSTIGUY: I also heard the same thing from a
18 different source, so we have two sources that say that --

19 MR. SIEMON: The same source, through different
20 ears.

21 MS. GOLDBURG: The excipients are actually
22 generally known in drugs.

23 MR. RIDDLE: Last night the Livestock Committee
24 was considering some alternative language and that would

1 have been three categories, grass or allowed in food, I
2 forget the exact wording, or that the excipient is
3 reviewed at the time that an active ingredient is
4 reviewed.

5 Our understanding during our discussion was that
6 those excipients could be very hard to identify, what
7 would be the incentive for a manufacturer, a big drug
8 company, to provide that information for a very small
9 market.

10 But since that time, Emily provided information
11 that this actually -- this information is labeled. It's
12 in the paper that comes with the drug, so it is readily
13 available, unlike the inerts in a pesticide formulation.
14 We didn't have that information when we considered it and
15 I personally preferred this other option, this other
16 version compared to what's on the table now. Especially
17 now that we have this further information.

18 MS. KOENIG: Do you want to move a substitute
19 motion?

20 MR. RIDDLE: Yes, I would move for a substitute
21 motion, but I don't have the wording in front of me. Do
22 you still have that, Nancy?

23 MS. OSTIGUY: Right.

24 MS. GOLDBURG: Can I make one other comment?

1 The other issue we discussed is what would happen to
2 currently -- drugs that we have approved in the past and I
3 think our motion was to for the time being grandfather
4 them as all right, but the future materials that came to
5 us.

6 MR. SIEMON: And that would be a split
7 situation, were the ingredients that we've look at, active
8 ingredients already, the recipients would grandfathered
9 in, but any in the future would have to be looked at and
10 that's a very awkward situation to be in.

11 Plus, then in the future when we did an active
12 ingredient for drugs we might have to instead of doing one
13 TAP review -- they said it would be included, but you now
14 have to look at four materials, two materials, three
15 materials, five materials, depending on how many
16 excipients are in that active ingredient. So you've now
17 complicated your task. We were given the charge to find a
18 line to draw.

19 CHAIRPERSON CARTER: Jim.

20 MR. RIDDLE: Yes. I'd like to offer a
21 substitute motion that Nancy is going to read.

22 MS. OSTIGUY: This is somewhat complicated, so
23 I'll define what I'm doing where I'm doing it. It starts
24 with "in addition," the next thing that I'm going to read,

1 and when I get there I'll tell you that is already in the
2 Rule and then there's some more addition to the Rule, so
3 I'll break it up and tell you when I've hit existing Rule
4 language versus new Rule language.

5 205.603(e) would begin with -- this would be in
6 addition, "as non-active substances for use with
7 disinfectants, medications and pesticides," so this is the
8 non-active material. Now we move to a portion that's
9 already in the law, so 205.603(e) actually starts with "As
10 synthetic inert ingredient is classified by the
11 Environmental Protection Agency for use with non-synthetic
12 substances or a synthetic substance listed in this section
13 and used as an active pesticide ingredient in accordance
14 with any limitations on the use of such substances. EPA
15 List 4 inerts are of minimal concern."

16 All that is already in there. Going back to
17 then the addition. This again applies to non-active
18 substances for use with disinfectants, medications and
19 pesticides.

20 The first item, "synthetic excipients, as
21 classified by the Food and Drug Administration for use
22 with non-synthetic substances or synthetic substances
23 listed in this section and used as an active animal drug
24 in accordance with the limitations on the use of any such

1 substance that one, has been determined by FDA that the
2 substance is generally recognized as safe, grass, pursuant
3 to Title 21 US Code of Federal Regulations, Part 182, 184
4 or 186."

5 Second part, "is approved as a food additive by
6 a petition set forth in 21 CFR 171 or is reviewed and
7 included with the list of active ingredients in this
8 part."

9 So there's three different ways, as a grass
10 substance, as a food additive already in 21 CFR 171 or as
11 an item that has been petitioned. What would happen is
12 that the petitioned item, the inert would be tied to the
13 active ingredient, so when we approve an active
14 ingredient, its inerts would go with it, so the TAP would
15 have to include everything.

16 MR. RIDDLE: So moved.

17 CHAIRPERSON CARTER: Thank you, Jim. Is there a
18 second to the substitute motion?

19 MS. CAUGHLIN: I'll second it.

20 CHAIRPERSON CARTER: Goldie has seconded it. It
21 is now on the table for discussion.

22 MS. BURTON: I have a comment.

23 CHAIRPERSON CARTER: Kim.

24 MS. BURTON: Again, I don't have anything in

1 front of me to read as a motion. This wasn't what was
2 officially brought from the Committee yesterday as a
3 Recommendation, so again I'm feeling like we're rushing
4 through things without having a good thought of what it's
5 going to do.

6 I've very hesitant to add a whole list of new
7 materials to review in an existing TAP when already we're
8 stretching a TAP at \$4,000 per review. I'm very concerned
9 on what this is going to do to the material review
10 process.

11 And although I agree with the intent, I'm not
12 sure I agree with the motion or what it's going to do,
13 because it's new to me. Again, I'm just voicing my
14 concern here.

15 CHAIRPERSON CARTER: George.

16 MR. SIEMON: I think we're really opening
17 ourselves to a legal issue where all of a sudden an active
18 ingredient that was previously approved, the excipients
19 are grandfathered in and then in the future we're going to
20 look at it and what happens when some of the same
21 excipients are in a new material and we say no to that now
22 because of the excipient, we're going to go back and
23 reverse that or if we say no to it and there was a
24 previous one we did that was equally bad that we didn't

1 review, now we've got one we said no that's just as bad as
2 the one we said yes to already, this is a mess.

3 CHAIRPERSON CARTER: Becky?

4 MS. GOLDBURG: I also want to voice a concern
5 and that is that our information that excipients are
6 actually available, information about what they are in a
7 drug is very new and we do not have a sense of what
8 excipients really tend to be in animal drugs nor how many
9 are in an average drug, if one can characterize an average
10 drug.

11 Again, and I suppose I'm voicing a version of
12 Kim's concern, I'm not quite sure what we're getting
13 ourselves into.

14 CHAIRPERSON CARTER: Jim.

15 MR. RIDDLE: In response to that, if you find
16 the public testimony from OMRI on this subject, the last
17 two pages are some lists of livestock drugs and their
18 excipients, so there are some examples of the materials
19 there and the wording that's been presented in the motion
20 is contained in this same document, so you do have it in
21 writing. On page two is where the motion begins that
22 Nancy read.

23 I certainly sympathize with the sentiment of
24 feeling rushed on this. I personally thought that the

1 motion coming out of the Committee was just too wide open
2 and this put some limits on it. But -- I'll stop for now.

3 CHAIRPERSON CARTER: Nancy.

4 MS. OSTIGUY: Stop me if someone has already
5 addressed this, as I was leaving the room to go secure my
6 room again for tonight.

7 I heard Kim express concern about the TAP
8 reports and the amount that this motion might generate.
9 These are actually tied to the active ingredient, so it
10 would come with an active ingredient that we'd have to
11 look at anyway.

12 The idea is that you would have a TAP for an
13 active ingredient, the excipients would be reviewed at the
14 same time, with that active ingredient.

15 MS. BURTON: Right. My concern is some of these
16 formulated products have ten inerts in them, so we're
17 asking for a TAP review much wider than we've addressed in
18 the past on separate materials.

19 You know, remember the petition process is for a
20 single material, not for a brand name review. We're not
21 doing what we're intended to do with this and I'm just not
22 comfortable with it.

23 CHAIRPERSON CARTER: Kevin.

24 MR. O'RELL: I'd like to prevail on Kelly to

1 provide some input.

2 MS. SHEA: My name is Kelly Shea. I would just
3 like to support Becky's statement about availability of
4 information of all the ingredients in a particular
5 medication and Jim, you had used the example where OMRI
6 showed you where they had found some of the excipients in
7 different things.

8 But Emily and I were talking when we weren't
9 supposed to be and what we were talking is when poloxaline
10 (phonetic) was petitioned, which is now on the National
11 List, it goes under the trade name Therabloat and some
12 other names for bloat.

13 I was the petitioner and it was impossible to
14 get information from the manufacturer about what was in
15 the drug besides the active ingredient. It was not listed
16 on the MSDS, we couldn't get the information and I was
17 told by Pfizer Animal Health lawyers that I would have to
18 ask the NOP to ask the FDA to ask CVM to talk to their
19 lawyers and get the information, but it would remain CBI
20 and would never be seen by this Board.

21 So I don't know if it's a difference between
22 prescription and over the counter, but I think I can share
23 a situation where we were not able to get the information
24 and I think that's why George came up with this

1 recommendation.

2 CHAIRPERSON CARTER: Jim.

3 MR. RIDDLE: I'd like to withdraw the motion.

4 CHAIRPERSON CARTER: The motion is to withdraw.

5 Who seconded it?

6 MS. CAUGHLIN: I did, just to get it in for
7 discussion.

8 CHAIRPERSON CARTER: So you withdraw the second,
9 so we're back to the original motion which is the NOSB
10 recommends the addition of a new 205.603(h) to read as
11 follows: excipients used in the manufacturing or found in
12 the finished product of drugs used in livestock treatments
13 are allowed unless specifically prohibited. That is the
14 motion on the table. Further discussion on the motion.
15 Rose.

16 MS. KOENIG: So the frame work just as a
17 committee is you're feeling because you're dealing with
18 individual animals -- even though some of the wording is
19 these are like inerts in pesticides, I guess I just wanted
20 to make the audience aware that inerts in pesticides
21 really have a further reach in the sense that you're
22 dealing with a number of plants, a population of plants in
23 the environment versus animal treatments where you're
24 usually dealing with individual animals.

1 Even though some of these things say inerts and
2 excipients, they're similar. They are, again
3 philosophically very different. I can agree with this.

4 CHAIRPERSON CARTER: Owusu and then --

5 MR. BANDELE: It's my understanding that the
6 excipients are also inerts. Are any of these excipients
7 in Category 1 or 2 EPA?

8 MR. SIEMON: As far as I know, they could be in
9 any category. I couldn't speak otherwise, unless somebody
10 else could speak.

11 But again, I think Rosie made a great point.
12 These are things that might be used once in the lifetime,
13 the active ingredient, of an animal on an individual
14 basis.

15 MS. KOENIG: Owusu, as I understand the Rule,
16 whereas in plants people would get -- you have to follow
17 the label on a pesticide, correct? You know, if you're
18 applying it for say a disease. But in a medication, and I
19 think that's where you have to put your mind in, we're
20 dealing with animals, we're not dealing with plants.

21 The law provides that you just can't randomly
22 give people medications just for the sake of medications.
23 I think what we're dealing with, there's a lot of safe
24 guards within that system.

1 CHAIRPERSON CARTER: Nancy.

2 MS. OSTIGUY: One way to look at the difference
3 between the excipients in pharmaceuticals and the inerts
4 in pesticides is pesticides are designed for broad
5 spectrum spraying, you're meaning to spread them all over
6 the place. You don't do that with a drug.

7 CHAIRPERSON CARTER: Are we ready to vote?

8 (No response.)

9 CHAIRPERSON CARTER: I guess so. We'll start
10 with Burton?

11 MS. BURTON: Yes.

12 CHAIRPERSON CARTER: Caughlin?

13 MS. CAUGHLIN: Yes.

14 CHAIRPERSON CARTER: Cooper?

15 MS. COOPER: Yes.

16 CHAIRPERSON CARTER: Goldberg?

17 MS. GOLDBURG: Yes.

18 CHAIRPERSON CARTER: Holbrook?

19 MR. HOLBROOK: Yes.

20 CHAIRPERSON CARTER: King?

21 MR. KING: Abstain.

22 CHAIRPERSON CARTER: Koenig?

23 MS. KOENIG: Yes.

24 CHAIRPERSON CARTER: Lacy?

1 MR. LACY: Yes.

2 CHAIRPERSON CARTER: O'Rell?

3 MR. O'RELL: Yes.

4 CHAIRPERSON CARTER: Ostiguy?

5 MS. OSTIGUY: Yes.

6 CHAIRPERSON CARTER: Riddle?

7 MR. RIDDLE: Yes.

8 CHAIRPERSON CARTER: Siemon?

9 MR. SIEMON: Yes.

10 CHAIRPERSON CARTER: Bandele?

11 MR. BANDELE: Abstain.

12 CHAIRPERSON CARTER: Carter votes yes. The
13 motion carries twelve for, two against, two abstentions,
14 no recusals.

15 MR. SIEMON: I just have one last question,
16 which I asked earlier, so excuse me for being duplicative.
17 As it is now, we don't have a policy for materials that
18 are in review, in TAP. Their status is that whatever it
19 is in the present Rule, they're frozen at that point until
20 the process is done?

21 MS. OSTIGUY: Yes.

22 MR. SIEMON: We've deal with Class 3's now,
23 we've dealt with things recommended, the stuff in the
24 middle is just left in limbo, even though it's presently

1 used?

2 MS. OSTIGUY: Yes.

3 CHAIRPERSON CARTER: Is there any other
4 ingredients that are going to demand that question? I
5 guess not. That's all we have.

6 Rose, you'll be glad to know that one of the
7 things in here was there was a Recommendation that we had
8 on paper about definition what an excipient is and we
9 decided that we'd just put that into our new glossary that
10 we're creating. The Livestock Committee came forward with
11 the first entry for the glossary.

12 Then let's move on to the Crops Committee.
13 Owusu.

14 MR. BANDELE: As I pointed out yesterday, we're
15 not dealing an annotation today, nor an Action Item on the
16 sodium nitrate issue, but Dennis is going to further
17 research that and report back and then we'll make whatever
18 adjustments we have to make at that time.

19 The hydroponic recommendation, I'm going to ask
20 that the Crops members not -- you already have a copy of
21 this, so just pass these out to the folks who don't. This
22 is not a guidance document, it's just another
23 Recommendation, but I've just done a little bit of
24 background on this whole hydroponic issue and to me, I

1 broadened it to include other soil assistance.

2 As is pointed out in this document, in 1995 NOSB
3 pointed out that hydroponic systems could possibly be
4 conducted as organic operations, as long as they met the
5 other requirements of OFPA.

6 Also, Rick has stated that hydroponic systems
7 are already covered by the existing Rule, as is true for
8 the bees and mushrooms and things of this nature.

9 Just more recently, at the last meeting we had,
10 we approved use of sodium nitrate as the main nitrogen
11 source in the spiral leaner system, which really was more
12 to me aquaculture than hydroponics. Even though we
13 approved this material to be used in that system, we
14 really didn't deal with the issue of whether or not in
15 fact that system fits in the scheme of organics and can be
16 certified.

17 But since the Crops Committee was assigned that,
18 I guess the Livestock got the honey bees and I guess they
19 could have got the algae, that could have gone either way,
20 but since the Crops Committee was assigned this, then
21 we're going to take up the task of evaluating all types of
22 system.

23 This is just a little background information, in
24 terms of the types of hydroponic systems that are in

1 existence now. One of the main ones is the NFT System,
2 which has dissolved nutrients primarily in water. You
3 have some systems that are called aggregate systems or
4 substrate systems in which you have media that's in bags
5 and even those it's not soil, it's still a soilless
6 system, so there are a lot of questions.

7 What I tried to do is point out some of the
8 questions that could arise as far as certification is
9 concerned and one of the overriding questions is whether
10 or not a soilless system -- all these systems are really
11 compatibly with organic production, even though they are
12 supposedly covered by the Rule.

13 We have to take into consideration the source of
14 fertilizers, leaching problems, sources of media disposal
15 of waste, et cetera.

16 Also, under the Act, some of these systems, as I
17 pointed out, are like aquaculture, such as the system that
18 we discussed at the last meeting, with the spiral leaner.

19 MS. CAUGHLIN: Excuse me. Several of us don't
20 have copies of this. Is it stuck somewhere up there?

21 MR. RIDDLE: There's some more coming.

22 MR. WILLIAMS: I just have an question. Is this
23 an Action Item?

24 MR. BANDELE: It's not an Action Item, no. I'm

1 just giving a little background, I'm not going to take a
2 lot of time with it.

3 As far as the agriponics is concerned, it's like
4 a mixture between agriculture and hydroponics and there
5 are questions involved here as well as far as when you
6 have fish and the fish are fluent as fertilizer. How does
7 that fit? If the fish are not being raised organically,
8 what's the situation with the vegetables that -- what
9 about is there a waiting period.

10 Those are some of the kind of questions involved
11 and I mentioned several other kinds, I'm not going to go
12 over all of them, the Board can read this, but primarily I
13 want to point out how this is really a complicated issue,
14 a lot more complicated than a lot of us may think.

15 Where I'll go from here, whatever feedback the
16 Crops Committee or the members would like to make, please
17 notify me. I'll contact people in the industry and by the
18 next meeting, hopefully come up with some type of
19 guidelines.

20 MR. MESH: Is it open for comment?

21 MR. BANDELE: It's kind of premature at this
22 point Marty, I think, but I can share some copies with
23 folks.

24 CHAIRPERSON CARTER: Rose.

1 MS. KOENIG: I had just a question for Rick,
2 based on the fact that all these systems would have to fix
3 within the existing requirements, plus there might be, you
4 said, additional I guess recommendations that might have
5 to be made for these types of systems that are maybe not
6 directly within in Rule.

7 But I assume hydroponics would fall under Crops,
8 the Crops Standards that exist. I guess how can it -- a
9 lot of them are based on soil fertility, they're clearly
10 based on soil based systems, so -- I mean, I can see where
11 you could have -- pest management sections would work
12 perhaps, except some of them do require cultural practices
13 that couldn't be performed in a hydroponic type situation.

14 Anyway, the bottom line is that I don't see a
15 very good meshing between what hydroponics is and some of
16 the Crops Standards. How does one if they're operating a
17 hydroponic operation deal with the -- I don't know. For
18 the certifier, if he's here, has anybody ever applied for
19 certification that has had hydroponic operations and can
20 they be certified?

21 CHAIRPERSON CARTER: Rose, before we get too far
22 into this, because this point in the agenda is really for
23 Action Items and we seem to be doing a lot of --

24 MS. KOENIG: Okay. This was on the agenda. I

1 don't want Owusu to start doing a lot of work and the
2 Committee be engaged into work that we later find out is
3 not useful, let's put it that way.

4 I'm not sure, based on -- and that's just a
5 question I'll ask rather than asking for -- just to Rick,
6 is this the direction you want us to go? What is your
7 recommendation in terms of how the Crops Committee should
8 deal with the issue of hydroponics?

9 MR. WILLIAMS: I think they should continue
10 their work, because it is our intention that hydroponics
11 is covered. We've stated that it's covered and if the
12 Crops Committee feels that there's better standards needed
13 for those, by all means, submit them.

14 It's a piece of work that needs to be done, as
15 long as they don't just come back with saying well, it
16 needs these five things and I say it's covered in these
17 five sections already, then it's not a waste of time.

18 MS. KOENIG: Okay. It's already started

19 MR. BANDELE: Again, I apologize, because I
20 realize this was not an Action Committee, but I spoke to
21 the Chair yesterday and asked for permission to bring this
22 up, because of the nature of --

23 CHAIRPERSON CARTER: And I don't mind it being
24 reported right now, I just didn't want to get into a lot

1 of discussion and have public input and all of that at
2 this point.

3 MR. BANDELE: The planting stock issue, Rose?

4 MS. KOENIG: You should have gotten two
5 documents, one is just for your information, it was passed
6 as a Recommendation. It really was a Recommendation for
7 clarification. It's been posted on the website as of May
8 7, 2002. But individuals felt like even though there was
9 this clarification statement, because it is based again in
10 the legal language, that it may still be a little cloudy
11 for individuals to understand, namely farmers who have to
12 deal with these planting stock questions.

13 I would refer you to the second page that you
14 have and these are in a question form with an answer. You
15 should have gotten them from --

16 MR. KING: They were passed out yesterday.

17 MS. KOENIG: Katherine did pass them out. It
18 starts out with I do not have a greenhouse --

19 CHAIRPERSON CARTER: That was 24 hours ago.

20 MS. KOENIG: No, no, it was today, around 10:00.

21 Just look through your stuff. I will read --

22 MS. BURTON: Can you give us a minute?

23 CHAIRPERSON CARTER: Excuse us here while we
24 fumble around here.

1 MS. KOENIG: Has everybody been able to locate
2 those?

3 MS. BURTON: I don't think it made it down to
4 this end of the table.

5 CHAIRPERSON CARTER: It stopped at Rick and I
6 don't have it, so it's somewhere between the Administrator
7 and the Chair.

8 MR. MESH: It's Barbara's fault now.

9 MS. ROBINSON: Oh, yeah. I have it.

10 MS. BURTON: Perhaps you guys who have them pass
11 them so we can at least share while we're looking at them.

12 MS. KOENIG: Let me go ahead and explain it,
13 this is not a critical issue. The intent is to just
14 supply three questions that we would like the NOP to post
15 on the Q&A section of the website, just for clarity.

16 Again, the exact wording, since I made them up
17 like I was asking the question and I also made up the
18 answer as if I was an NOP staff person, because Rick kind
19 of wanted to get a feel for what we were asking.

20 So the language can change, but the intent is to
21 clarify to growers and they have to deal with -- question
22 one is "I do not have a greenhouse or any other means of
23 producing my tomatoes and other annual seedlings. May I
24 buy my plants from a commercial, non-organically certified

1 greenhouse operation that used or uses prohibited
2 substances?"

3 Then the answer to that one would be no and it
4 says "Section 205.204(a) requires that producers must use
5 organically grown annual seedlings. However, non-
6 organically produced seedlings may be used to produce an
7 organic crop when a temporary variance has been granted in
8 accordance with 205.290(a), which includes variances for
9 the following reasons: natural disasters declared by the
10 Secretary, damage caused by draught, wind, flood,
11 excessive moisture, hail, tornado, earthquake, fire or
12 other business interruption and practices used for the
13 purpose of conducting research.

14 "Additionally, 205.204(a)(v) states that seeds,
15 annual seedlings and planting stock treated with
16 prohibited substances may be used to reduce an organic
17 crop when the application of materials is required by
18 requirement of federal and state sanitary regulations."
19 That's the law.

20 Then it says -- this is his little interjection
21 of the NOP person. "Clearly, not developing on farm
22 methods for producing organic annual seedlings or not
23 identifying alternative off farm certified organic sources
24 of seedlings is not included in the provisions listed

1 under those two sections." That hopefully will clarify
2 for annual seedlings to producers.

3 The second question to be posted, "I am a
4 producer who grows strawberries as annuals, potatoes,
5 garlic, onions and sweet potatoes from planting stock. I
6 cannot find commercially available planting stock for
7 these crops. May I purchase stock from non-certified
8 operations that have applied prohibited substances to
9 these plants prior to the time that I purchase them?"

10 The answer is "Yes. Section 205.204(a)(i)
11 allows a grower to purchase non-organically produced
12 planting stock when an equivalent organically produced
13 variety is not commercially available. However, once you
14 take possession of the planting stock, they must be grown
15 in accordance with the National Organic Standards." That
16 was what we asked back in May of 2002.

17 Then the third question is "I am a producer who
18 grows raspberries, rhubarb and asparagus perennial crops.
19 These are perennial crops, but I cannot find organically
20 produced planting stock. Can I buy plants from a
21 commercial non-organic producer who has treated the plants
22 with prohibited substances?"

23 The answer again is "Yes. If organic planting
24 stock is not commercially available, then Section

1 205.204(a)(iv) allows the use of non-organically produced
2 planting stock for these crops. However, the planting
3 stocks for perennial crops has to be maintained under a
4 system of organic management for a period of no less than
5 one year before it can be sold, labeled or represented as
6 organically produced."

7 We're hoping that those three questions and
8 answers will close the book on seedlings and transplants.

9 CHAIRPERSON CARTER: Okay. Any more discussion
10 on this? This is just for the posting.

11 MR. RIDDLE: Can I call on Marty?

12 CHAIRPERSON CARTER: Okay. Go ahead.

13 MR. MESH: Not having a copy of it, it is a bit
14 difficult, but on your second one you might put I can't
15 find certified organic --

16 MS. KOENIG: Okay. That's what I'm saying, the
17 wording will be changed, but these are the ideas that we'd
18 like on question and answer.

19 CHAIRPERSON CARTER: Go ahead, Rick.

20 MR. WILLIAMS: I'm not going to render an
21 opinion on the three Q&A's, all I can say is that whatever
22 the Board does with this document, we will review them and
23 give you feedback one way or the other as to whether they
24 get posted as is, as modified or if we make an

1 interpretation that it doesn't comply.

2 But we do appreciate not only receiving the
3 question, but having what you think the answer legally is
4 under the regulations.

5 MS. KOENIG: I'll send the bill in the mail.

6 MR. WILLIAMS: No, I look at it as homework.

7 CHAIRPERSON CARTER: Owusu, go ahead.

8 MR. SIEMON: It's what we think the
9 interpretation is, it's what we think you said.

10 CHAIRPERSON CARTER: Is there a formal action to
11 go along with this or is this --

12 MS. KOENIG: Just approval from the Board that
13 you -- I guess you acknowledged that those questions --

14 CHAIRPERSON CARTER: I'm waiting for a motion.

15 MS. KOENIG: The motion is to accept not the
16 answers, but the questions as to the questions should be
17 posted on the website as questions.

18 MS. BURTON: We don't need a motion on that.

19 MS. KOENIG: No motion, all right.

20 CHAIRPERSON CARTER: I was waiting. What I
21 thought would be helpful is to have a motion to recommend
22 this language, but that's fine.

23 MR. RIDDLE: And I would make a motion that we
24 recommend the Q&A's, the questions and answers.

1 MR. BANDELE: Yes, I second that.

2 CHAIRPERSON CARTER: Is there a second to that
3 motion?

4 MS. KOENIG: Second.

5 CHAIRPERSON CARTER: Discussion on this. I
6 realize that this is probably not anything that yours is
7 going to raise or fall on, but if we want to recommend to
8 the NOP that they answer things a specific way, we need to
9 take that as an action from the Board, so discussion on
10 the motion. Owusu?

11 MR. BANDELE: This is very important because a
12 lot of growers had a lot of confusion around these issues
13 and that's why we did the whole thing. We just were
14 talking about strawberries initially, but it had to be
15 broadened to include those other vegetative propagating
16 crops.

17 CHAIRPERSON CARTER: Okay. Further discussion.
18 Marty.

19 MR. KING: I just wanted to build on your point
20 a little bit and I may not have had as much exposure to
21 growers as you or your committee has had, but there very
22 definitely is a need. Sometimes it's commercial
23 availability, sometimes it's misunderstanding. Anyway, I
24 support the effort and thank the committee for completing

1 it.

2 CHAIRPERSON CARTER: Jim.

3 MR. RIDDLE: I just want to clarify that the
4 motion does include that correction that Marty Mesh
5 offered, changing the words in the second sentence of
6 number two, "I cannot find certified organic planting
7 stock."

8 CHAIRPERSON CARTER: Since you're the maker of
9 the motion, it certainly does include the Mesh language.
10 We will move to vote then. Caughlin?

11 MS. CAUGHLIN: Yes, but I'm uncomfortable with
12 the way -- this is yes, but I don't like voting in this
13 way, having a piece of paper for five minutes.

14 CHAIRPERSON CARTER: Cooper?

15 MS. COOPER: Yes.

16 CHAIRPERSON CARTER: Goldberg?

17 MS. GOLDBURG: Abstain.

18 CHAIRPERSON CARTER: Holbrook?

19 MR. HOLBROOK: Yes.

20 CHAIRPERSON CARTER: King?

21 MR. KING: Yes.

22 CHAIRPERSON CARTER: Koenig?

23 MS. KOENIG: Yes.

24 CHAIRPERSON CARTER: Lacy?

1 MR. LACY: Abstain.

2 CHAIRPERSON CARTER: O'Rell?

3 MR. O'RELL: Yes.

4 CHAIRPERSON CARTER: Ostiguy?

5 MS. OSTIGUY: Yes.

6 CHAIRPERSON CARTER: Riddle?

7 MR. RIDDLE: Yes.

8 CHAIRPERSON CARTER: Siemon?

9 MR. SIEMON: Yes.

10 CHAIRPERSON CARTER: Bandele?

11 MR. BANDELE: Yes.

12 CHAIRPERSON CARTER: Burton?

13 MS. BURTON: I'm going to abstain also.

14 CHAIRPERSON CARTER: And the Chair votes yes.

15 It carries eleven yes, no noes and three abstentions.

16 Anything else, Owusu?

17 MR. BANDELE: Oh, the last item is the compost
18 task force reenactment and I'd like to have Board approval
19 to reenact the compost task force to further consider the
20 composting and other issues and to have Dennis Holbrook
21 and Eric [sic] Siemon serving as co-Chairs on that
22 committee.

23 CHAIRPERSON CARTER: Okay. There is a formal
24 motion to reestablish the compost task force.

1 MS. KOENIG: Second.

2 CHAIRPERSON CARTER: It's been seconded.

3 There's a motion on the table. Discussion.

4 (No response.)

5 CHAIRPERSON CARTER: Hearing none, starting off,

6 Goldberg?

7 MS. GOLDBURG: Yes.

8 CHAIRPERSON CARTER: Holbrook?

9 MR. HOLBROOK: Yes.

10 CHAIRPERSON CARTER: King?

11 MR. KING: Yes.

12 CHAIRPERSON CARTER: Koenig?

13 MS. KOENIG: Yes.

14 CHAIRPERSON CARTER: Lacy?

15 MR. LACY: Yes.

16 CHAIRPERSON CARTER: O'Rell?

17 MR. O'RELL: Yes.

18 CHAIRPERSON CARTER: Ostiguy?

19 MS. OSTIGUY: Yes.

20 CHAIRPERSON CARTER: Riddle?

21 MR. RIDDLE: Yes.

22 CHAIRPERSON CARTER: Siemon?

23 MR. SIEMON: Yes.

24 CHAIRPERSON CARTER: Bandele?

1 MR. BANDELE: Yes.

2 CHAIRPERSON CARTER: Burton?

3 MS. BURTON: Yes.

4 CHAIRPERSON CARTER: Caughlin?

5 MS. CAUGHLIN: Yes.

6 CHAIRPERSON CARTER: Cooper?

7 MS. COOPER: Yes.

8 CHAIRPERSON CARTER: The Chair votes yes, it
9 passes 14 to nothing.

10 MR. BANDELE: That's it.

11 CHAIRPERSON CARTER: Okay. Now, we are down to
12 the Processing Committee.

13 MR. KING: Thanks. As you know, I requested the
14 members of NOP and there is a need also recognized in the
15 industry, there's a Processing Task Force that was formed
16 not too long ago, in fact it was in September of 2002,
17 basically to provide some clarity concerning what non-
18 agricultural materials must be reviewed to be used in
19 processed products that are labeled as organic and made
20 with organics.

21 The task force sought to further define the
22 material review process, not just for the members of the
23 organic industry who are producing these processed
24 products, but also really to recognize and to assess to

1 the best of our ability other legal and regulatory text
2 that could be pertinent to the food industry as a whole.

3 After much discussion, consideration and other
4 things, the general -- I'm just going to read the general
5 and then read or actually summarize, if you will, some
6 other supporting documentation. I would like it to be
7 noted that this is a final draft, so there will be time
8 for comment and certainly analyzation on the programs
9 part. I just want to note that now.

10 The general recommendation is that direct and
11 secondary direct food additives are subject to NOSB
12 review. Indirect food additives are not subject to NOSB
13 review.

14 Some of the history that we found through this
15 process is the Federal Food and Drug Cosmetic Act, FD&C of
16 course defines food additive in relevant part really as a
17 substance that's reasonably expected to become a component
18 of a food under the intended conditions of its use.

19 The food additive regulations, there are really
20 three separate categories, which are part of our
21 Recommendation, obviously, and that's direct, secondary
22 direct and indirect, 172, 3 and 4 of those relative
23 sections, 21 CFR.

24 MR. SIEMON: Mark, could you refer to what page

1 you're on, if you are reading for us?

2 MR. KING: I'm not quite there yet.

3 MR. SIEMON: Okay, fine. I'm sorry. No wonder
4 I couldn't find it.

5 MR. KING: I'm on page one now, George. I'm
6 sorry, that was just some notes I had that aren't even
7 part of this, but they are recognized in the document and
8 this is just a list of resources that I would like to be
9 recognized and that is we considered OFPA, we considered
10 National Organic Program Final Rule, we looked at the
11 CFRs, Code of Federal Regulations, we looked at previous
12 NOSB Recommendations and other historically significant
13 documents and input that was either provided directly by
14 the task force or other individuals as well.

15 I don't think it's any surprise that if you look
16 at the history of what's happened with the Board, that
17 they've always at least tried to follow the intent of OFPA
18 as it really relates to the materials review process.

19 One of the ways to look at this, and the really
20 pertinent I guess really language in this particular case
21 is OFPA, which this is on page two, George, Section 6504,
22 "To be sold or labeled as an organically produced
23 agricultural product, under this chapter an agricultural
24 product shall have been produced and handled without the

1 use of synthetic chemicals, except as otherwise provided
2 in this chapter."

3 Again, no surprise to those of you in the
4 industry, but I think it's important to be able to review
5 this, especially as we look at the context of what we've
6 talked about, not just from the processing standpoint in
7 the last day and a half, two days, but really in the
8 industry as we try to recognize some of these areas that
9 are not only just pertinent to the industry, but have been
10 recognized by other segments of the industry that perhaps
11 the conventional side of production or handling and so on
12 and so forth.

13 Still on page two, and forgive me, because I
14 think it's important, this is just pulling from the
15 preamble of the Final Rule, this is on page 80641, the
16 Rule defines processing aid as "A substance that is added
17 to a food for its technical or functional effect in
18 processing, but is still present in the finished food at
19 insignificant levels and does not have any technical or
20 functional effect in that food."

21 This is just one example and this would be
22 exempt if you look at 21 CFR 101.100, but it goes on to
23 say in the preamble of the Rule "Labeling of products with
24 minor ingredients, the NOP states minor ingredients

1 processing aids must be treated as any other ingredient or
2 substance which is used in an ingredient in or on the
3 processing of an organically produced product. To be
4 added as an ingredient or used in the processing of a
5 product labeled organic, a minor ingredient must be from
6 an organic agricultural source, if commercially available.
7 If not commercially available, the ingredient must be an
8 agricultural product or substance consistent with the
9 National List." This is just from the preamble, so we're
10 looking at lot of different stuff.

11 Going on, looking at page three, this is one of
12 the statements the committee came up with in just looking
13 at an opinion, 21 CFR 101.100 exemptions from labeling,
14 basically in referring to CFR 170.3, that this would
15 validate past and future NOSB Recommendations on material
16 review.

17 Following that, if you look at the document, I'm
18 not going to read this, but I think it's important really
19 to note that we did refer to and we have included in the
20 document, and that's the '95 NOSB Recommendation on
21 incidental food additives in organic foods. It was
22 adopted at that time and submitted to USDA.

23 At that time in '95, and this is a NOSB
24 Recommendation and I'll read that, "Although incidental

1 food additives --" there's a typo there -- "may not appear
2 in the ingredients statement of foods labeled as organic,
3 these additives must be subjected to the same National
4 List evaluation process as other processed food
5 ingredients."

6 Further, this was also in '95 and I think
7 important to note is that the Board in this case tried to
8 provide further guidance for processors concerning
9 synthetic incidental processing aids.

10 Really, in a nutshell, all I'll say here is that
11 the Board recommended the review of those incidental
12 processing aids, plus things like thorough documentation
13 of the need, as well as demonstrating some sort of
14 progress towards the replacement of that, were there
15 natural alternatives or when were you going to discontinue
16 the use.

17 MS. BURTON: Could I just interject one comment?

18 MR. KING: Right.

19 MS. BURTON: Noted further down that page is the
20 definition of a processing aid, per 21 CFR 170.3024 and
21 this was the definition of processing aid that the 1995
22 NOSB Board was using and it's directly referenced in their
23 Recommendation.

24 They were actually using a different definition

1 of processing aid than is in the current NOP Rule.

2 MR. KING: Thank you. That is important to note
3 and in fact, that's --

4 MR. SIEMON: But we have to be guided now by the
5 present one.

6 MS. BURTON: Right. I'm just noting it.

7 MR. KING: We'll get there. I'm sorry. I just
8 think it's important, because this was an awful lot of
9 work for a lot of people, so I want to just make note of
10 kind of how we arrived at what we arrived at.

11 Duly noted Kim's point here, which is 21 CFR
12 170.3024, this definition, I'll just go ahead and read it
13 if you don't mind. "Processing aid, substances used as
14 manufacturing aids to enhance the appeal or utility of a
15 food or food component, including clarifying agents,
16 clotting agents, catalysts, flocculence, filter aids and
17 crystallization inhibitors," et cetera, et cetera.

18 In continuing with this, this is one of many
19 Recommendations that the task force came up with and again
20 I'll remind you this is a final draft being submitted to
21 the Program.

22 The NOSB Processing Task Force recommends that
23 all non-agricultural, non-organic substances that are
24 classified as either direct, secondary direct or gross

1 food additives, and here are the pertinent sections, 21
2 CFR 172, 173, 180, 181, 182 and 184 are subject to the
3 National List Material to be Processed.

4 I'm not going to go through each and every list,
5 but to let you know, 72 is just direct, 73 is secondary
6 direct and then we get into the gross sections when we're
7 looking at 82 and 84. Kim, remind me to come back to
8 wine, I don't want to get too --

9 MS. BURTON: Okay. Well, and just to comment
10 that we did pull out all of the materials that we have
11 reviewed thus far under these sections to give people an
12 idea of the types of materials listed.

13 MR. KING: And we duly noted, which is a great
14 work by many members of the task force, has it been
15 allowed, is it allowed with an annotation, the status of
16 that particular material. I'll come back to wine.

17 So another Recommendation really in this case is
18 we were looking at different sanitizers and I just wanted
19 to kind of look at -- well, first let me go here, then
20 I'll go to sanitizers, sorry.

21 MS. CAUGHLIN: State page numbers as you're --

22 MR. KING: Seven.

23 MS. CAUGHLIN: Thank you.

24 MR. KING: This really just deals with the more

1 general recommendation that I said before, that indirect
2 food additives are exempt from the process, but it does
3 give you the specific sections. Primarily what we're
4 talking about here is packaging that is primary intended
5 use. We're not recommending that they be subject to
6 material review and then there are a couple of sections I
7 just want to read real quickly from OFPA and the NOP Rule
8 that pertain to this.

9 OFPA Section 211.6510, which is handling, "For a
10 handling operation to be certified under this Title, each
11 person on such handling operation shall not, with respect
12 to any agricultural product covered by this Title, (a) (v),
13 use any packaging material, sorts, containers or bins that
14 contain synthetic fungicides, preservatives or
15 fumigants."

16 NOP is fairly consistent, it's a little bit
17 different language, but it's 205.272, which is commingling
18 and contact with prohibited substance prevention practice.
19 That pertains not only to processing, but of course with
20 any handling operation.

21 That is the following are prohibited for use in
22 handling, packaging materials, storage containers or bins
23 again that contain synthetic fungicides, preservatives or
24 fumigants.

1 One other area in the indirect section and that
2 is sanitizers. I want to address that from a couple
3 different perspectives. One is in looking at -- let's
4 just look at a material as an example here. Jim,
5 actually, thank you for providing some of this input and
6 this language.

7 Let's look at chlorine. If it's used as a
8 sanitizer, historically, as you know, the NOSB has
9 reviewed this and we've made a Recommendation on it. I
10 guess what we're going to look at or I know what we're
11 looking at here and what we'd like to recommend is that in
12 this particular case we think it was really outside or
13 beyond the scope of NOSB review and that the use of it in
14 this case as a sanitizer, the annotation should be changed
15 to reflect that, so the task force would recommend that
16 the words "disinfecting and sanitizing food contact
17 surfaces, except that," be deleted from the annotation.

18 That would be pretty straight forward. To
19 further build on this issue, chlorine and water as used as
20 an ingredient we do believe is within the scope of the
21 National List Review Process. I don't have the --

22 MS. BURTON: Unless it's part of your good
23 water --

24 MR. KING: MPs, right.

1 MS. BURTON: If it's added by the city or the
2 county and it comes in with the water, you really don't
3 have any control over that.

4 MR. KING: Right. If it's --

5 MS. BURTON: If you're adding it separately, I
6 don't know why you would, but --

7 MR. SIEMON: Well, for wash water on produce.

8 MR. KING: Yes, that would be one. And I think
9 this ties into -- let me just finish this point, then I
10 think we can give --

11 CHAIRPERSON CARTER: George had his hand up.

12 MR. SIEMON: Just a clarifier. Are there two
13 different uses of the word "indirect" here on the same
14 page? Indirect food additives is directly related to the
15 CFR and down here you have indirect food additives. Those
16 are two different uses of the word "indirect" or not, on
17 page seven.

18 MR. KING: What are you referring to?

19 MR. SIEMON: You went to chlorine and you used
20 the word "indirect food" and "indirect contact." That's a
21 different use of the word "indirect" as compared to what
22 it was up above, in the CFR indirect.

23 MR. KING: I was just saying I guess there were
24 different sections certainly and then we were looking at

1 those that are intended for packaging.

2 MR. SIEMON: But indirect additives have nothing
3 to do with indirect food additives.

4 MS. BURTON: There's other examples, such as the
5 cellulose sausage casings that we reviewed previously,
6 that's --

7 MR. SIEMON: Two different uses of the word
8 "indirect."

9 MS. BURTON: Yes.

10 MR. SIEMON: Fine. That's all.

11 MR. KING: I'm sorry, I didn't understand what
12 -- okay. I was just going to say based on your point,
13 Jim, the use of cleansers and sanitizers is regulated in
14 the Model Food Code, so we have that and GMPs in the
15 document as well. And we'll come back to wine.

16 There's an addendum.

17 MS. BURTON: Wait. Can I comment on this
18 section before we --

19 MR. KING: Go ahead, please.

20 MS. BURTON: We're going really fast.

21 MR. KING: I always talk fast, I'm sorry.

22 MS. BURTON: The indirect food additives when we
23 were drafting this document, and we did it very quickly
24 and swiftly and it was -- in my mind, it's a great

1 document, it's very thorough, we had a lot of good input
2 on it, we had a lot of -- the task force members really
3 took it seriously.

4 On this section on indirect food additives, we
5 were questioned on whether or not it really had enough
6 meat to just say -- so to speak -- that we don't review it
7 and why don't we review it. Well, really, there's nowhere
8 in OFPA or the NOP Rule that tells us that we can.

9 It's really short and sweet and there's really
10 not a lot of justification as to why we can't review
11 packaging material or past precedence. It's never been
12 done, so this section, although it doesn't seem as though
13 we put as much effort into it, we really did, but it's
14 just not there.

15 CHAIRPERSON CARTER: Okay. Go ahead, Mark.

16 MR. KING: Back to sort of a more general topic
17 and that is one of -- and I'll thank Mark, if he's in the
18 room, for his visual aid earlier today, You were
19 describing a technology, but I'll describe a process in
20 which what we're trying to do, not just as a task force,
21 but it seems in a lot of areas as an industry, is take all
22 of this information that's the size of this room and
23 somehow, in a week's time or a month's time or a year's
24 time, narrow it down to the size of your little magnet.

1 That's exaggerated to a certain degree.
2 Yesterday we learned a lot of information that had not
3 previously been discussed in some ways within the task
4 force. So as an addendum, what we've offered really here
5 in our really short meeting yesterday, which wasn't long
6 enough at all, is that we discovered on October 15 of 2002
7 that there's a new FDA regulation that's been implemented
8 and we talked a little bit about this yesterday and it
9 really is concerning food contact substances.

10 We're recognizing that this may impact the use
11 of secondary direct food additives, specifically 21 CFR
12 173, in the organic industry.

13 Consequently, it could effect the current
14 Recommendation of the task force and we recognize that.
15 Again, this is going to go forward for comment and review,
16 so I'd like to make that point again.

17 We're recognizing that and we just want to, at
18 this point, without further research, tell you that to
19 determine the relevance based on all this other work we've
20 done and then to try and do that in a few minutes at a
21 meeting after this meeting is a tall task, to say the
22 least, so we haven't chosen to really put that as part of
23 the Recommendation moving forward.

24 It is an addendum, it is attached to the

1 document and duly noted. The language in the sections are
2 also attached as part of the addendum, for those of you --
3 this is the last page here.

4 Not in closing, but certainly one thing I would
5 like to say and then open it up for discussion is to thank
6 everyone, not only on the task force, but members of the
7 public, both interested and disinterested parties, who
8 have give us, I think, some really good information in a
9 short period of time and the one general feeling that I
10 know I personally felt and that members of the task force
11 expressed is that we have some interesting decisions to
12 make and we feel that October 21 is a fantastic day in a
13 lot of ways.

14 We also know that it would be ignorant in many
15 ways to make rash decisions based on the fact that that
16 day is coming, so to speak.

17 So again, thanks to everyone who provided input
18 and questions, concerns. Kevin?

19 MR. O'RELL: Yes. I would just like to add
20 there was a tremendous amount of work that was done with
21 the Processing Task Force in preparation for this meeting.

22 One of the things that was missing, as Mark had
23 indicated, was the fact that yesterday to our attention
24 was brought this food contact substances and a new

1 classification in the FDA which is talking about packaging
2 material or defining food contact substances as packaging
3 material, processing contact surfaces and ion exchange
4 specifically.

5 Having that information, we got together the
6 Processing Committee, which was only part of the
7 Processing Committee Task Force, because the Processing
8 Committee Task Force that was assigned to this had other
9 members beyond the NOSB.

10 So as a group we looked at this and tried to
11 within an hour investigate as much as we could on line and
12 we couldn't find exactly the precise correlation between
13 food contact substance and ion exchange. We found the
14 meeting from slides or slides from a meeting. We went
15 through, but we just didn't find that, not that we're
16 saying it doesn't exist.

17 But what we wanted to do as a group was to
18 recognize that we do recognize there is a food contact
19 substance category. We also recognize that that would
20 impact the NOSB's authority to review those materials and
21 we felt the best way to handle this at this time was to
22 recognize that and put it in an addendum, because this
23 will be going for public comment, so there will be a
24 period of time to gather more facts and sort this out.

1 But we felt it important to include it as new information.

2 CHAIRPERSON CARTER: And I would recommend as
3 you summarized the other stuff, since this is new and it's
4 fairly brief, why don't you read the addendum?

5 MR. KING: Oh, sure. That's fine.

6 CHAIRPERSON CARTER: So everyone in the room --

7 MR. KING: I'll do that and then Kim has a point
8 to make too. "On October 15, 2002 a new FDA regulation
9 was implemented concerning food contact substances. This
10 may impact the use of secondary direct food additives (21
11 CFR 173) in the organic industry and consequently, the
12 current Recommendation of this task force.

13 "For example, materials currently considered
14 secondary direct food additives could be recognized as
15 food contact substances, which would impact the NOSB's
16 authority to review these materials.

17 "The task force recognizes this new regulation,
18 however the task force will further research this
19 regulation and determine its relevance to the Processing
20 Task Force Recommendation. The following language
21 represents pertinent findings to date," then we basically
22 just cited some sections. I don't know if we feel it's
23 important to read that, because there may be additional
24 information. There may be a lot more information, in

1 fact. Kim, you had --

2 MS. BURTON: Just a couple of things I think
3 that need comment on. Again, we were asked to put the
4 fence posts around material review, which we feel we've
5 done a very fine job of defining. And again, this new
6 food contact substance, with our initial review, we did
7 not feel that was in the scope of our purview of
8 materials.

9 However, again, like they said, we do need to go
10 back and look at it in depth and make a Final
11 Recommendation about it. But at least at our initial
12 review.

13 Then Mark, you wanted to go back and discuss the
14 wine CFR, which we had left out. Do you want me to do
15 that?

16 MR. KING: I don't care. Hold on. Sure, go for
17 it, I can't seem to find the pages. It's 27 CFR, which
18 is --

19 MS. BURTON: When we were drafting this
20 document, we were trying to make sure that we incorporated
21 all of the CFRs that we were aware of that would have
22 impact on the National List and as the Materials Chair, I
23 see a lot of the petitions come through and I've also had
24 a lot of phone calls from people in the wine industry, so

1 I was the one who was actually going through the CFRs and
2 figuring out what material was already voted on, which
3 ones had past precedents, past history, that sort of
4 thing.

5 I came across the wine CFR and there's actually
6 a section under 27 CFR which we are also recommending be
7 included under the purview of our review, 27 CFR, Part 24
8 Wine and it's titled "Wine Materials Authorized for
9 Treatment."

10 Why I think this is really imperative is that
11 just as we hear earlier about the tartaric acid, there are
12 materials that are on this wine section that are not
13 included under 21 CFR. I'd hope that the NOP really takes
14 that into consideration.

15 I know that that's probably stepping on BATF and
16 NOP, all those agreements they have to have, but again, I
17 think it's essential for the wine industry.

18 CHAIRPERSON CARTER: Okay.

19 MR. KING: Do you have other questions,
20 comments? George.

21 MR. SIEMON: Just so I'm clear, we're just
22 putting this up for comment now, we're not taking a vote
23 on it or anything like that at this time?

24 MR. KING: Well, I guess --

1 MS. BURTON: I would recommend we vote on the
2 Recommendations. You could go one-by-one or you could do
3 the whole document.

4 MR. SIEMON: Are we then going to re-vote on it
5 once the comments are in?

6 CHAIRPERSON CARTER: Yes.

7 MR. RIDDLE: Well, our procedure generally, if
8 it's a Committee Recommendation, that it just be posted
9 from the Committee, not voted on.

10 MR. KING: For comment.

11 CHAIRPERSON CARTER: Rick?

12 MR. SIEMON: You didn't talk about these boxes
13 that -- or did I miss that?

14 MR. KING: Where are you at?

15 MS. BURTON: The one that refers to --

16 MR. KING: Oh, that's the addendum. There was
17 one reference doing our research yesterday.

18 MR. SIEMON: But those aren't part of what's
19 going to go on the --

20 MR. KING: That's basically what we found
21 yesterday and it is in the addendum and we want it to be
22 part of the document, George, but what we're saying, if
23 you read the first paragraph, is that further research is
24 needed.

1 MR. SIEMON: These were actually out of the FDA
2 wording?

3 MR. KING: Yes. Those are examples of what we
4 found in one hour yesterday that we felt were pertinent,
5 so therefore, we included them as part of the document.

6 MR. SIEMON: It might be helpful to have a
7 little cover to it says excerpts from the FDA Ruling? I
8 don't know, it seems to me just jump out there, but maybe
9 I'm wrong.

10 MR. O'RELL: That's kind of how they got there.
11 We were just --

12 MS. BURTON: We were validating that this --

13 MR. KING: If jumped there. We found it on the
14 website, that's all that happened.

15 CHAIRPERSON CARTER: Rick?

16 MR. WILLIAMS: I just want to clarify one point.
17 As I listened to Mark's presentation, one of your
18 comments, Mark, was that the -- or maybe it was Kim
19 commented that the Board had always looked at the
20 definition of "processing aid" as it occurs in Part 21 at
21 170.30, Item 24.

22 I bring the attention of the Board and the
23 audience to the Recommendation Addendum Number 15 on
24 Incidental Food Additives in Organic Foods presented at

1 the Austin, Texas meeting on October 31 of 1995.

2 A large portion of this document talks in terms
3 of 21 CFR Part 101.100(a)(iii) and (a)(iii) is that second
4 definition, if you will, of processing aids. The Board
5 very clearly went through that as processing aid and that
6 is the definition that ended up in the Final Rule.

7 So it's not that the NOP just plucked out the
8 second one, the Board had made this Recommendation and
9 this is the basis for which we used when we created the
10 provisions that are in the existing Rule. That's just a
11 clarification, it's not a criticism.

12 MR. KING: I was just going to add to that, and
13 thank you for making that correction, because that is
14 included in our document, that the Recommendation I read
15 as noted was the intent of the Board at that time and that
16 was really just -- they may not appear on the ingredients
17 statement, but they still wanted to review them,
18 basically.

19 MS. BURTON: And then, Mark, the only other
20 thing that attached to this document was an e-mail from
21 FMI, basically supporting our same thoughts, so to speak,
22 and we received this after we had actually drafted our
23 language.

24 MR. KING: Yes. It's dealing with something

1 else that --

2 MS. BURTON: It's being submitted as part of the
3 Recommendation.

4 MR. KING: Well, and I think this really fits
5 into -- just a minute, Jim, into a larger thing and we've
6 had as a Board, not just the task force and the committee
7 here, but less than 30 days to prepare for a lot of this,
8 so we have put a lot of time and effort into it and by no
9 means are we -- anyway, this is just another thing that
10 came to us through that process. Jim?

11 MR. RIDDLE: Yes, a question. Is the intent to
12 post that addendum from FMI along with the Recommendation
13 from the committee?

14 MR. KING: It wasn't my understanding that that
15 was going to be part of it, but I think it could be duly
16 noted that certainly it was provided as some input.

17 MS. BURTON: Well, it was clipped all together
18 and I thought was had --

19 MS. CAUGHLIN: I wouldn't think so. That's
20 public comment.

21 MS. BURTON: Okay.

22 MR. KING: Kevin, did you --

23 MR. O'RELL: No, I agree. I think that's public
24 comment.

1 MR. KING: Yes.

2 CHAIRPERSON CARTER: Exactly. Because then we'd
3 start having to putting another public --

4 MS. CAUGHLIN: We'd start a precedent like that.

5 MR. KING: Do you want me to just say how many
6 -- it's just that we're forwarding the document, that's
7 all we really need to --

8 CHAIRPERSON CARTER: Yes, that's all you need to
9 say is you're forwarding the document. All I would like
10 to say is to reiterate, this committee in a very short
11 period of time has really done an outstanding job of
12 pulling together this document, which I think is a good
13 piece of work. I just want to compliment you on that. Go
14 ahead.

15 MR. KING: Are we ready for a motion?

16 CHAIRPERSON CARTER: Yes.

17 MR. KING: I move that the Board accept the
18 Processing Task Force Recommendation final draft, with the
19 addendum as proposed.

20 MR. O'RELL: I second.

21 CHAIRPERSON CARTER: It's been moved and
22 seconded. Technically, we don't need Board action to post
23 stuff from a committee, but I would accept it just because
24 this process was really put out to the whole Board and I

1 think it's important that we move forward on that.

2 The motion on the table is to accept the task
3 force Recommendation. Discussion on the motion.

4 MR. SIEMON: I'm just concerned that this was to
5 post so we can have a final vote on that. I'm just
6 concerned that that be clear as could be.

7 CHAIRPERSON CARTER: Okay. And Katherine will
8 make that absolutely clear in the minutes, that this was
9 to post. If you're ready to vote, we'll proceed to vote,
10 starting with Lacy.

11 MR. LACY: Yes.

12 CHAIRPERSON CARTER: O'Rell?

13 MR. O'RELL: Yes.

14 CHAIRPERSON CARTER: Ostiguy?

15 MS. OSTIGUY: Yes.

16 CHAIRPERSON CARTER: Riddle?

17 MR. RIDDLE: Yes.

18 CHAIRPERSON CARTER: Siemon?

19 MR. SIEMON: Yes.

20 CHAIRPERSON CARTER: Bandele?

21 MR. BANDELE: Yes.

22 CHAIRPERSON CARTER: Burton?

23 MS. BURTON: Yes.

24 CHAIRPERSON CARTER: Caughlin?

1 MS. CAUGHLIN: Yes.

2 CHAIRPERSON CARTER: Cooper?

3 MS. COOPER: Yes.

4 CHAIRPERSON CARTER: Goldberg?

5 MS. GOLDBURG: Yes.

6 CHAIRPERSON CARTER: Holbrook?

7 MR. HOLBROOK: Yes.

8 CHAIRPERSON CARTER: King?

9 MR. KING: Yes.

10 CHAIRPERSON CARTER: Koenig?

11 MS. KOENIG: Yes.

12 CHAIRPERSON CARTER: The Chair votes yes, it
13 passes 14 to nothing, no abstentions.

14 While you're passing that done, Rose, you'll be
15 glad to know that we found the black hole into which the
16 copies of your Q&A fell into. I won't say specifically
17 where it is, but it's somewhere between the Program
18 Administrator and Jim Riddle.

19 MR. KING: Well, the next thing for the
20 Processing Committee on the agenda, and I'm going to be
21 boldly honest, we were given two tasks actually that
22 related to the same concept and that was essentially to
23 look at handling and processing and try to establish some
24 sort of guidance, if you will, on the differentiation, and

1 we were able to complete maybe almost half of that is I
2 guess the way I'd look at it.

3 So what you have before you is just really a
4 very rough first draft that deals with post harvest
5 handling and processing for organic production operations.

6 The second half of that task has not been
7 completed for retailers, but I'll give some details on our
8 goals on that in a minute.

9 I'm not going to read this, it's a three-page
10 document. Essentially what it is, if you look at it, it's
11 just to consider sort of where we're at. It's very basic.
12 We looked at OFPA, we looked at the National Organic
13 Program and then some other pertinent documents.

14 There are definitions included on here to
15 essentially give you an idea of what we found and then
16 there are -- there's a very short section on page two if
17 you look at it that looks at just production or post
18 harvest handling with some examples, some very basic
19 examples of different things that may be considered to be
20 part of post harvest handling.

21 On the last page, essentially what it is is
22 looking at different tasks or acts, if you will, that
23 could perhaps be considered processing.

24 The very last thing you'll see and I guess the

1 one thing I'd say too is that this just deserves a lot
2 more consideration. Again, with the short time frame, we
3 were not able to really do too much more than this, but I
4 did want to let the Board know what we have accomplished
5 at this point.

6 The very last thing, again it's rough, first
7 draft, but just to note that perhaps in the future this
8 could maybe be guidance, but in looking at the regulation
9 and the law, I didn't find any definition for post harvest
10 handling.

11 I did find some guidance in the definition of
12 handle in the Rule that I thought was somewhat helpful,
13 but it wasn't extremely specific. I might be nice to have
14 input from certifiers to understand how they are
15 interpreting those sorts of things in the field.

16 I note on the end here just maybe a potential,
17 if you will, rough definition for post harvest handling,
18 simply for crops. This does not include livestock in this
19 case.

20 Another thing is, and I don't have copies of it,
21 I apologize for that, but I did want to make reference to
22 what I think is a pertinent document in this particular
23 case and I thank Jim for allowing me to attach this and
24 this has been done a while ago, I think maybe perhaps a

1 couple years ago, but it is from the IFOAM/IOIA
2 International Organic Instruction Manual. Not all
3 sections pertain, but I did want to make reference to it.
4 It's Section 4.6 on farm processing.

5 Again, this was prepared by Jim and Joyce E.
6 Ford. There are things in here that I think are
7 important. It references examples of processing, things
8 of that nature.

9 Dave, I don't know if you feel we need to move
10 this forward in any sort of formal vote, it's just more of
11 a reflection of --

12 MS. KOENIG: We haven't seen this in the
13 Processing Committee --

14 CHAIRPERSON CARTER: I don't think that --

15 MS. KOENIG: -- so I'm not comfortable
16 forwarding that.

17 MR. KING: Yes, I know you're not.

18 MS. KOENIG: Sorry.

19 MR. KING: I've got to let you know what I'm
20 doing late nights these days, since I don't have anything
21 else to do.

22 CHAIRPERSON CARTER: Okay.

23 MR. KING: So that's all there and then I would
24 like to note, if I could, just for the record concerning

1 -- because this was on the agenda, retailers. There's
2 some things that I think would be important in moving
3 forward to try to differentiate these two is to look at
4 obviously OFPA and the Rule, but also I wanted to
5 recognize a couple of industry efforts.

6 One is OTA, I just want to note that in terms of
7 guidance, not from a regulatory perspective, but I think
8 there are examples in there. There are a lot of really
9 good people in the industry who have put a lot of good
10 work into that.

11 Certainly most recently, and I think it was on
12 the back table earlier today and yesterday, is that FMI
13 has a document out as well. These are things that we can
14 start to look at to hopefully provide further guidance for
15 those in the retail sector who are trying to differentiate
16 between those two.

17 Also I would note that I talked to Margaret
18 yesterday in whole foods, who has spent the better part of
19 a year, a year and a half or so now dealing with these
20 issues at the store level, on a national basis, and they
21 have implemented an internal program. They would also be,
22 obviously, a very good resource in this area, too.

23 CHAIRPERSON CARTER: This wording of the
24 previous draft of this, but when I was looking through

1 this last night, my question was on the second page there
2 at the end, where you have "for transport or sale the
3 handler, except in cases where products are packaged or
4 sold directly to consumers at Farmers Markets," to just
5 drop Farmers Markets, because they can be sold directly to
6 consumers at other venues.

7 MR. KING: You mean drop the words "at Farmers
8 Markets"?

9 CHAIRPERSON CARTER: Yes.

10 MR. KING: Okay.

11 CHAIRPERSON CARTER: Any further discussion on
12 this?

13 (No response.)

14 CHAIRPERSON CARTER: Okay. Anything else to
15 come from Processing?

16 MR. KING: No.

17 CHAIRPERSON CARTER: Okay. Then International
18 Committee, we're holding off on the ESU equivalency.
19 Anything else as far as Action Items?

20 MS. BURTON: No. Nothing.

21 CHAIRPERSON CARTER: Okay. Then we are going to
22 take a break. Let's take a 15-minute break and then we
23 will come back and review the committee work plans and do
24 the election and talk about planning some.

1 (Off the record discussion.)

2 CHAIRPERSON CARTER: Reconvene. Okay. let's go
3 in with committee work plans. What have we got on the
4 agenda in -- Mark, you were on a roll, so let's start off
5 with Processing.

6 MR. KING: Wow. Well, we have four things right
7 now. One is to continue work on obviously the Processing
8 Task Force, which is the lengthy document we just
9 presented, so we hope to have a final Recommendation at
10 the next meeting for that.

11 Secondly, to continue work on processing versus
12 handling for both producers and retailers and then also to
13 look at cultures, so we plan to do that and continue the
14 materials review process. Those are the four things on
15 our work plan.

16 CHAIRPERSON CARTER: Okay. Accreditation
17 Committee.

18 MR. RIDDLE: Okay, three items. Continue review
19 of the NOP Accreditation Program and Accreditation
20 documents. Two, monitor certifying agent issues. And
21 three, continue to monitor website. That's it.

22 CHAIRPERSON CARTER: Okay.

23 MR. RIDDLE: And then also the Board Policy
24 Manual Task Force, should I just go ahead with that?

1 CHAIRPERSON CARTER: Yes.

2 MR. RIDDLE: There, a new item, solicit glossary
3 items from NOSB and NOP and then once those have come in,
4 compile draft one of the Board Policy Manual glossary.

5 CHAIRPERSON CARTER: I forget, Jim. Was Rosie
6 on that task force initially?

7 MR. RIDDLE: She hasn't been yet, but --

8 CHAIRPERSON CARTER: Okay. Well, Rosie has now
9 been added to this task force.

10 MR. RIDDLE: Thank you.

11 MS. BURTON: That's two task forces for Rosie.

12 CHAIRPERSON CARTER: Materials.

13 MS. BURTON: Four areas that we will be
14 addressing. As we were so kindly made aware of by Mr.
15 Pooler, it's now time to re-review the materials on the
16 National List. We've been charged to do 10 percent at the
17 May meeting and I was a little bit overwhelmed at that
18 thought.

19 We are going to have to come up with our
20 prioritization criteria for re-review of materials. There
21 is criteria established for new petitions, so hopefully we
22 can just look at that and utilize that same type of
23 format. I think I'm shocked.

24 We also have a task force on EPA List 3 inerts

1 that the Materials Committee will be working on, or at
2 least managing.

3 We have current petitions that as of tomorrow,
4 Monday, we'll have to start looking at those and
5 forwarding them for review.

6 And then the fourth thing would be to monitor
7 contractors. We've had a lot of issues with our TAPs and
8 I think that that's something that the task force should
9 put on our agenda to monitor.

10 CHAIRPERSON CARTER: Okay. If there's nothing
11 else under Materials, then Crops.

12 MR. BANDELE: Compost Task Force reenactment.
13 Sodium nitrate clarification, hydroponic guidance, List 3
14 inert work with Rosie, whatever TAP reviews come in and
15 minor items, the Q&A on a potassium sulfate, the natural
16 potassium sulfate.

17 CHAIRPERSON CARTER: That's it for Crops, okay.
18 Then Livestock.

19 MR. SIEMON: Well, without talking to my
20 committee, besides Nancy, we did not deal with the breeder
21 stock issue that we had put forward, I just realized.
22 That was part of our dairy replacement, so that's
23 something I think we'll have to see if we still want to
24 put that forward.

1 We were going to go through the criteria for the
2 material process to see if we need to modify what is used
3 for livestock versus crops and such. We were going to
4 identify calf-hood drugs that were necessary for raising
5 young stock in dairy to see if there's any of those that
6 need to be put through the TAP review.

7 OTA has brought up some good questions about the
8 standards on production stock, wool and that kind of
9 thing, that I think we should revisit. Then I'm real
10 eager to see the other standards we've done, going forward
11 how that's going to fit into a Rule change or a change of
12 the Rule going forward.

13 CHAIRPERSON CARTER: Okay.

14 MR. SIEMON: That's a lot of work.

15 CHAIRPERSON CARTER: Yes. And then
16 International?

17 MS. GOLDBURG: International. The International
18 Committee has really only been meeting since the September
19 Board meeting, since Willie was the Chair last spring and
20 then I took over.

21 Formally our work plan to go forward is to
22 continue looking at recommendations on equivalency, which
23 I would say are more general than really just EU/US
24 equivalency, since the issues transcend negotiations with

1 the EU.

2 That said, I think that the committee really
3 needs to have a broader discussion of its work plan, which
4 we have not had at this meeting, particularly since I have
5 been told by the NOP and was told that I could say that at
6 this meeting that the NOP sees no role for the
7 International Committee. So anyway, I think --

8 CHAIRPERSON CARTER: So the relevancy question
9 raises --

10 MS. GOLDBURG: The relevancy question raises its
11 head, yes.

12 CHAIRPERSON CARTER: Anything else anyone on the
13 Board wants to raise as far as work plans? Anything you
14 see missing from any of this? We've got a lot of work to
15 do yet, it doesn't end on October 21.

16 MS. GOLDBURG: Bob had his hand up.

17 CHAIRPERSON CARTER: Bob.

18 MR. POOLER: Bob Pooler with the NOP. I request
19 that all committees forward their work plans to the NOP
20 and to Katherine for us to have a record of them. Also,
21 to forward all the Recommendations that were passed here
22 today to Katherine and your respective representative
23 chairpersons, NOP persons that are representative to the
24 committees. Thank you.

1 MR. RIDDLE: Mark seconds. All in favor say
2 aye.

3 (Aye)

4 MR. RIDDLE: Those opposed?

5 (No response.)

6 MR. RIDDLE: All right Dave. Back to you.
7 Congratulations and thanks for doing a great job.

8 CHAIRPERSON CARTER: The leader principle proves
9 itself once again. You know, I just do want to say one
10 thing, because last year I did not ask for this position,
11 but when I ended up with it, the one thing I did ask for
12 was the full support of this Board in helping out and
13 doing the work and you guys have come through tremendously
14 and I appreciate that because it does make this job a lot
15 easier.

16 The floor is now open for nominations for Vice
17 Chair.

18 MS. OSTIGUY: I would nominate Jim Riddle.

19 MS. GOLDBURG: Second.

20 CHAIRPERSON CARTER: Jim Riddle has been moved
21 and seconded. Kim?

22 MS. BURTON: I'd like to nominate Mark King.

23 CHAIRPERSON CARTER: Mark King has been moved,
24 is there a second?

1 MS. KOENIG: Second.

2 CHAIRPERSON CARTER: It's been seconded. Are
3 there other nominations?

4 (No response.)

5 CHAIRPERSON CARTER: Nominations will close. I
6 will ask --

7 (Off the record discussion.)

8 CHAIRPERSON CARTER: Now there should only be
9 14. No, you can't vote. Okay. While we are counting
10 that, let's go ahead and proceed. The floor is now open
11 for the office of secretary.

12 MR. WILLIAMS: Well --

13 CHAIRPERSON CARTER: Okay. You're right. Let's
14 hold off. Okay, does anybody have a joke to tell?

15 CHAIRPERSON CARTER: This is the first time
16 Marty has never wanted to come to the microphone, let that
17 be a part of the record, please.

18 MR. RIDDLE: We can reconfirm about your next
19 meeting, Dave.

20 CHAIRPERSON CARTER: Okay. The next meeting
21 dates we have tentatively --

22 MR. BANDELE: What about tomorrow?

23 CHAIRPERSON CARTER: If we get done today --

24 MR. SIEMON: We already established that we

1 would be on the 13th, didn't we? Wednesday, Thursday, the
2 13th, 14th, 15th?

3 MS. CAUGHLIN: Of what month?

4 MS. KOENIG: May. We talked about right around
5 the OTA meeting in Austin.

6 CHAIRPERSON CARTER: Yes. I have the 13th, 14th
7 and 15th of May 2003.

8 MS. KOENIG: In Austin, downtown.

9 CHAIRPERSON CARTER: That's Tuesday, Wednesday,
10 Thursday and we're staying downtown. When does your
11 conference start, Katherine. We're done at noon on
12 Thursday.

13 So the only thing it guaranties is it makes us
14 real tired and cranky by the time we come to your
15 conference.

16 MR. SIEMON: Will we have new Board members by
17 then or not? I've lost track.

18 MR. WILLIAMS: By May there may be one.

19 CHAIRPERSON CARTER: One of the things I wanted
20 to do is get an update on that.

21 MR. SIEMON: Dave, where are we on filling that
22 seat? Let's have that report.

23 CHAIRPERSON CARTER: We're going to get a
24 report.

1 MR. WILLIAMS: There's three eligible.

2 Katherine has got the package.

3 MS. DIMATTO: You're on a need to know basis.

4 MR. POOLER: Bob Pooler, National Organic
5 Program. For the position of Vice Chair, we had five
6 votes for Mr. James Riddle and we had nine votes for Mr.
7 Mark King.

8 CHAIRPERSON CARTER: Then the floor is then open
9 for the nomination for the office of secretary.

10 MS. CAUGHLIN: I nominate Jim Riddle for
11 secretary of the Board.

12 MR. SIEMON: Second.

13 CHAIRPERSON CARTER: It's been moved and
14 seconded to nominate Jim Riddle as secretary. Other
15 nominations? Are there further nominations?

16 (No response.)

17 CHAIRPERSON CARTER: I would entertain that
18 nominations cease and that the secretary be directed to
19 cast a unanimous ballot for Jim Riddle.

20 MR. SIEMON: I'll move it.

21 CHAIRPERSON CARTER: And seconded?

22 MR. KING: Second.

23 CHAIRPERSON CARTER: All in favor say aye.

24 (Aye)

1 CHAIRPERSON CARTER: Opposed, same sign.

2 (No response.)

3 CHAIRPERSON CARTER: Motion carries. You've
4 just got more work to do now.

5 MR. RIDDLE: Well, it's improved tremendously,
6 actually, the whole secretary --

7 CHAIRPERSON CARTER: I want to express
8 appreciation to Goldie for the work that you've done as
9 secretary. I wish we had an office of treasurer to vote
10 for, because that would mean we had some money, but we
11 don't.

12 The only other thing, and I have mentioned this
13 consistently, I talked about doing it in August and just
14 because of the rush of meetings, but because we do have
15 quite a time between now and May, I would like to suggest
16 that some time this winter, and we may have to pay for it
17 out of our own pockets to do that, but at some point in
18 time the Board get off-site and do some planning for the
19 work that we have ahead.

20 You guys wouldn't even have to be there. I'm
21 suggesting someplace up in the mountains of Colorado that
22 we do that. Is that something that the Board feels that
23 we ought to do?

24 MR. SIEMON: You're going to have a hard time

1 doing it with everybody paying their own way.

2 MS. KOENIG: Yes. I don't want to sound cheap,
3 but I'm not going to pay my own way.

4 MS. KOENIG: You can come to Florida and I'll
5 cook. It's warm.

6 MR. KING: And show up with brussel sprouts.

7 CHAIRPERSON CARTER: In regard to brussel
8 sprouts, I thought those were on the list of natural
9 prohibited.

10 Then the last thing that I have is really to get
11 a report on the status of filling the Environmentalist
12 vacancy on the Board. Rick or Barbara, can you fill us in
13 on that?

14 MR. WILLIAMS: Yes. Barbara hasn't been filled
15 in. Katherine has put the package together and it's in my
16 box for review, so it should be moving forward relatives
17 soon.

18 UNKNOWN VOICE: Who are the candidates?

19 MR. WILLIAMS: Actually, I can't tell you who
20 the candidates are. I can tell you that we had six people
21 inquire and I believe it was -- we've got three who are
22 qualified, two of those definitely did not return the
23 documents that they were asked for and one of them I'm not
24 sure if they returned and one of them may have returned,

1 but really wasn't qualified.

2 MR. SIEMON: Who makes that determination? Is
3 that yours?

4 MR. WILLIAMS: Well, that's where the first
5 screening is, yes. With us.

6 CHAIRPERSON CARTER: Okay.

7 MR. WILLIAMS: And again, that third one may
8 also have lacked the material that we requested. But what
9 happens is that we get the nomination and then we send out
10 the paperwork and once we get that paperwork back, then
11 we've got something to make a determination on whether or
12 not they qualify, but if they don't send the paperwork
13 back, at some point we have to cut it off and say they
14 weren't that interested.

15 CHAIRPERSON CARTER: All right. Other business
16 to come before the Board?

17 MR. SIEMON: We did clarify on the reception
18 tomorrow at the USDA, that's by invite only, as far as
19 people not on the Board? I kind of feel bad about the
20 exclusion personally about that.

21 CHAIRPERSON CARTER: Go ahead, Barbara.

22 MS. ROBINSON: This wasn't really our choice.
23 The invitations went to all of you and all previous Board
24 members, all USDA folks in every agency that have helped

1 put this program together over the past 12 years, all
2 federal personnel in other agencies, like EPA or ATF, that
3 sort of thing, and it was just a decision out of our
4 control that was made that it would just be an in-house
5 reception. I do apologize about that.

6 CHAIRPERSON CARTER: Tomorrow morning, though,
7 we start off at 10:30 at Whole Foods down the street?

8 MR. SIEMON: Can somebody give me that address?

9 CHAIRPERSON CARTER: We will get that address.
10 Yes?

11 MS. BURTON: Do we have all that -- I guess I
12 was confused. I'm not sure even if I got the stuff from
13 -- is it -- hey, we're all going to different parties. I
14 don't know what you're talking about then. What are --

15 CHAIRPERSON CARTER: Barbara, we've had a
16 request, some of us are very style conscious, tomorrow
17 morning at the event at Whole Foods, the dress code, any
18 protocols?

19 MS. ROBINSON: It's black tie.

20 MR. KING: And for those taking cabs, what is
21 the address?

22 MS. ROBINSON: It's 1440.

23 MR. SIEMON: It's about seven blocks from here,
24 isn't it? Seven or eight blocks from here. You could

1 walk there.

2 CHAIRPERSON CARTER: Before we adjourn, I just
3 want to say for the record I very much appreciate the work
4 that this Board has done this last year. I know coming
5 into this meeting we had some tensions and I especially
6 appreciate the working environment that we've had for the
7 last two days. I think we all need to celebrate the fact
8 that we got something absolutely monumental going on.

9 From my perspective, and I have an opportunity
10 to deal a lot with folks in conventional agriculture and I
11 go to a lot of meetings where people are just absolutely
12 discouraged and disheartened because of what they see and
13 what they see happening to independent producers.

14 The fact that we have the debates and the
15 discussions and the arguments that we have here is because
16 something incredible is happening with organics and
17 everybody wants to be a part of something that's growing.
18 The two words that I always find that I use when I talk
19 about this business are passion and integrity.

20 It's neat to be a part of that. I think all the
21 folks at this table were sort of like the folks that have
22 the good fortune of being at the last leg of a relay race
23 when your team was well ahead and you can stroll to the
24 finish line because so many people who have come before us

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