

UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

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

Tuesday,
May 7, 2002

8:00 a.m.

MEMBERS PRESENT

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

STAFF PRESENT:

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

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MR. CARTER: We're ready to resume our meeting. I would like to begin with just a couple of announcements. Number one -- let's see where we're at on the -- okay. First of all, number one, I'm just going to turn it over to Willie to --

MR. LOCKERETZ: To make a cravenly self-serving promotional announcement. Now that I got your interest, the word ecolabels came up a lot yesterday, and I'm the chairperson for a conference on ecolabels to take place at Tufts University, which is where I work on my time off from NOSB -- November 7 through 9, on all aspects of ecolabels, which includes but is not limited to organic and other ecolabels intending to show that a product was raised with particular attention to resource conservation, environmental benefits, and so forth.

There still is a little time for you to submit an abstract for presentation at this conference, but even if you don't want to do that, you may be interested in attending it. I have this little notice. I'll put a pile of them up on that front table explaining what the conference is all about and explaining what to do if you want to submit an abstract.

There's also a Web address which you can check

1 from time to time for the latest information. I also
2 wanted to give you a sign-up sheet except I can't find --
3 a sign-up sheet if you want to be kept informed
4 electronically.

5 Ah, this is it. If you want to be kept
6 informed electronically about information about the
7 conference, you can just sign up and I'll put you on our
8 list.

9 Organic is sort of the granddaddy of all
10 ecolabels, but this conference will be covering the
11 concept of ecolabels in its full generality.

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

13 Then on just a procedural thing, if -- the
14 Livestock Committee met this morning and they have looked
15 at some wording changes and some recommendations. So
16 there will be a couple of items brought up under the
17 Livestock Committee this afternoon that will be presented.

18 The agenda does not call -- Monday does note
19 that there's any vote on -- or not Monday; on Wednesday --
20 any voting, but the recommendation is to bring the items
21 up for discussion this afternoon and then we will bring
22 them back up for a vote -- yes, we can vote on the one
23 item that will be brought up, but the accessed outdoors
24 for poultry and the dairy replacement issues will be

1 brought up, reviewed this afternoon, and then will be
2 brought up tomorrow morning for action. So that is a
3 change. Please note that on the agenda.

4 Okay. Rick has got an announcement.

5 MR. MATHEWS: Yesterday during the Livestock
6 Committee report, I was a little -- well, I was harsh in
7 my comments about the product that was presented forward
8 on a couple of the items.

9 And, George, I want to apologize for being so
10 harsh.

11 MR. SIEMON: Oh, you already did that
12 privately. And I apologize for not being more prepared.
13 [indiscernible] said that but if we could vote today and
14 people are satisfied it might help tomorrow's schedule. I
15 don't know if we have to be bound by that. I'd rather be
16 flexible, but that's up to you.

17 MR. CARTER: Well, I think 24 hours does not
18 make that much difference, and I think just procedurally
19 what we've talked about is that on these major items, we
20 like to bring them up one day, have a chance to ruminate
21 on it -- excuse my bovine analogies here in a poultry
22 issue, but -- and then bring it up for action.

23 So any other before we launch right into this
24 morning?

1 And I appreciate that. I think that -- you
2 know, the whole idea that the -- and let me just make a
3 statement. I mean, the whole idea of the NOSB and NOP is
4 that there's always going to be kind of a healthy tension
5 between the two as we go forward and because of the
6 passions that are involved in this work.

7 But, you know, everybody around this table and
8 in this room, whether they're part of NOP or the NOSB or
9 whether they're just a participant in the discussions, has
10 a very strong concern about organic agriculture and a very
11 strong desire to make sure that it moves forward
12 successfully. So we all have to keep that in mind.

13 Okay. Let's go on in then. We'll turn it
14 over -- we talked about the policy manual yesterday for
15 discussion. We wanted to bring that back up for action
16 today.

17 So, Jim.

18 MR. RIDDLE: Yes, Mr. Chair. I'd like to begin
19 by following Robert's Rules of Order and move the policy
20 manual for adoption.

21 MS. OSTIGUY: Second.

22 MR. CARTER: Okay. Jim made the motion. I
23 will announce the seconds. Okay. Nancy has seconded --
24 just to avoid some confusion here. Okay. Now, is the

1 motion on the whole manual or just those items that were
2 not changed. Did you make the changes?

3 MR. RIDDLE: Well, I'm making the motion --

4 MR. CARTER: Go ahead -- okay. Explain --

5 MR. RIDDLE: -- to open it up for
6 consideration.

7 MR. CARTER: Okay.

8 MR. RIDDLE: So yes, when we met on Sunday
9 informally just to go through a review of the draft, there
10 were a few items that we highlighted for setting aside.
11 And so the manual that we'll be voting on is everything
12 except those items.

13 And I do have them up on the screen, and I'm
14 going to see if I can move it from here.

15 (Pause.)

16 MR. RIDDLE: Okay. Will you be able to hear me
17 from here? Am I projected enough? So if I can do it from
18 here -- I know I can do it.

19 So I would just like to run through it very
20 quickly. We aren't going to need near the amount of time
21 that's allotted on the agenda. As I pointed out to the
22 board the other day that the electronic version of this is
23 linked so that when you hit on a section in the table of
24 contents, it opens up that section, so it's easy to move

1 around.

2 So, as I described yesterday, it has the duties
3 of the board, which you got to read quick, but here's --
4 and yes. I'm really just going to focus the items that
5 we're setting aside, because we walked through it
6 otherwise.

7 So two of the items we're setting aside for now
8 is the issue of keeping confidential predecision
9 information not made available to the public through open
10 meetings or the NOP Website. That certainly is an
11 important consideration as a board member, but we just
12 felt that there is need to rework that language. It's not
13 that it's being deleted as such.

14 The same thing with the consideration about the
15 board members speaking with one voice and our ability
16 to -- if we did not support a recommendation of the board
17 and we voted against it, we still can state that but to
18 support the process, the decision-making process, so that
19 we're speaking with one voice in terms of the integrity of
20 the process. So we just need a little reworking of that
21 section.

22 The conflict of interest -- there were no
23 changes there, but there is a need for further development
24 of one issue and that is if a board member was a

1 petitioner on a material -- right now our policy has been
2 or is that if a board member was a petitioner, they
3 automatically must recuse themselves.

4 However, we now have board committees
5 petitioning materials for the sake of a larger industry,
6 the need to get a material reviewed. And so that is a
7 different situation than if you're a petitioner on behalf
8 of your company to get a material reviewed, and we haven't
9 really developed the language to sort that out; what the
10 ramifications of board members petitioning as a board
11 member on behalf of the larger organic industry. So we'll
12 be adding some language there in the coming months.

13 We also had a -- under the votes we really talk
14 only about the decisive votes, the two-thirds majority of
15 the quorum needed to pass a final recommendation or to
16 including the status of materials. But there also are
17 times when we just follow a majority vote and that's not
18 addressed, so that's another issue we earmarked for
19 further development, so that I'm really talking about the
20 text that's not there.

21 Okay. Now here, a little rewording on the
22 responsibilities of the secretary that -- to make it clear
23 that the secretary doesn't physically do all these things
24 but is responsible for them getting done. So just a fine-

1 tuning of the wording there.

2 And here, I think we've already agreed to add
3 the highlighted words there, but the executive committee,
4 being's we operate on behalf of the board under FACA
5 responsibilities, there must be participation of the NOP
6 staff any time there's an executive call. And, We shall
7 meet monthly or as needed. We're adding some language
8 there.

9 And, Executives shall not take action on any
10 recommendation to the secretary, including status of
11 materials. So that -- we've already done the development
12 work, but I earmarked it just because it's new.

13 And we went through all the responsibilities of
14 the different committees. We made a couple changes to the
15 peer review appointment plan and we informally agreed to
16 those. But to make sure that the -- at least one member
17 in the alternate shall be NOSB members, and I had some
18 very awkward wording about the lowest vote-getter, and I
19 changed that to the person receiving the fewest votes.

20 Otherwise, let's see. Oh, I think we needed to
21 add some language on the committee chairs, that the
22 committee chairs are appointed by the chair of the board,
23 too. And we have notes -- I'm not going to go through
24 those, I guess, but -- because I've already hit on most of

1 them as we've gone along.

2 But we have made notes of the things we need to
3 add -- Goldie did. And then a lot of the content is the
4 materials review process, and that follows along with what
5 Kim presented yesterday in great detail, and there's an
6 example of a statement of work that a contractor, a TAP
7 review contractor would have, and that's what this is.

8 And the only other change being proposed is to
9 move away from using these voting forms that we have been
10 using to some procedures following Robert's Rules of
11 Order. Every time that a material is being considered,
12 there'll be a motion from the committee chair to open the
13 discussion. It will need to be seconded by any member.

14 The committee chair will summarize the
15 recommendation from the committee, and then we will
16 proceed with discussion. And that's the process we'll be
17 following today, and it's all laid out there in writing
18 and it's highlighted, but I guess -- we can leave it
19 highlighted, but we are going to be following it, correct?

20 Is there no problem with that? And so that -- I think
21 that --

22 MS. CAUGHLAN: Jim, it was also noted that we
23 will be adding, for the benefit of those of us who are not
24 Robert's Rules of Order-aware, those of us who are

1 challenged, there's going to be a --

2 MR. CARTER: A primer, or a Cliff Notes version
3 of this.

4 MS. CAUGHLAN: -- Cliff Notes version.

5 MR. RIDDLE: Right. An abridged version of
6 Robert's Rules of Order will be added as an addendum to
7 the manual. Right. Thank you.

8 MR. CARTER: One thing, Jim, and this is just
9 a -- I don't think it's a major action, but under the
10 section where we talked about the executive committee and
11 the like, do you use -- we use the word secretary in the
12 same page both to refer to the Secretary of Agriculture as
13 well as the board secretary, and I think when we're
14 talking about the board secretary, we probably ought to
15 put in the word board and when you talk about the
16 Secretary of Agriculture, we ought to so designate.

17 So I think most of us understand that, but it
18 could lead -- yes. So --

19 MR. CARTER: Good point.

20 MS. BURTON: We'd also talked about adding the
21 flow chart into this, the material review flow chart.

22 MS. CAUGHLAN: That's a nice thing.

23 MR. RIDDLE: Well -- yes, I don't think I did
24 that. Sorry. Forgot about that. So I just wanted to

1 back up a second. There's the policy on presenters
2 invited by committees, and that has already been adopted
3 but it is a policy so it's in this manual.

4 And as we have -- as we develop a policy for
5 guidelines for how to write a recommendation, that will go
6 under this miscellaneous policy section as well.

7 MS. BURTON: And question. I see this as a
8 working document. In other words, like the material
9 review process or the petition process. As things change,
10 we can automatically update this without getting the whole
11 board to vote on it. Is that correct?

12 MR. CARTER: Well, that's why I was wondering
13 if the motion that came forward was a motion to adopt the
14 policy with the understanding that additional items will
15 be added.

16 MR. RIDDLE: Yes, certainly. It's my
17 understanding --

18 MR. CARTER: I think that's what I heard you
19 say --

20 MR. RIDDLE: -- this is a living document --

21 MR. CARTER: -- when you made your motion.

22 MR. RIDDLE: Yes. Pardon?

23 MR. CARTER: I think that's what I heard you
24 say when you made the motion.

1 MR. RIDDLE: Yes. Well, if not, I accept as
2 friendly meant.

3 MR. CARTER: Okay.

4 MR. RIDDLE: Okay. And then there's the
5 addendum of the NOSB principles of organic production and
6 handling, and then the abridged notes version of the FACA
7 facts, explaining just what a federal advisory committee
8 is and how it's appointed and what the duties of the FACA,
9 designated FACA officer are as relates to the committee.

10 So any other --

11 MS. CAUGHLAN: Question. Are these actually
12 excerpted directly or are these your --

13 MR. RIDDLE: Did I make them up or did they --

14 MS. CAUGHLAN: No. I'm asking whether or not
15 these are rephrased or are they --

16 MR. RIDDLE: Well, they were provided to me by
17 NOP. I don't know -- I think Catherine e-mailed them to
18 me. I pretty much pasted them in to you.

19 MR. MATHEWS: And they're prepared by the
20 faculty.

21 MS. CAUGHLAN: Thank you.

22 MR. RIDDLE: Yes. It's not creative writing on
23 my part. Okay.

24 MR. CARTER: Okay. Is there any other

1 questions or discussion?

2 Yes. Willie.

3 MR. LOCKERETZ: Procedural question. The
4 sections that we're not dealing with now -- how do they
5 get dealt with? Are they voted separately by the board or
6 are we voting to say, We give you the authority to
7 implement these changes; that we agree with them in
8 principle, but go ahead and write them?

9 MR. RIDDLE: Well, what I would prefer is
10 they're being referred back to the board policy task
11 force, and we will do a little work on them between
12 ourselves and then re-present them back to the board for
13 formal approval.

14 I would just like to follow that for any
15 changes to the policy manual. But in the interim if
16 there's a need for a policy and the executive committee
17 has met and gives interim approval, this is going to be
18 what we follow until it's formally adopted by the full
19 board. I'd like to have that understanding.

20 MR. CARTER: Okay. That sounds good to me.
21 Okay. So if approved, then we will start following this
22 document. The task force will rework the language. The
23 executive committee will review that in the interim and we
24 will make note that at the next board meeting we will

1 bring those items back up for final approval.

2 Okay. So we'll have that noted for next
3 meeting's agenda.

4 Does everybody understand then what's on the
5 table? Is there any other discussion?

6 If you're ready to vote, all in favor say aye.

7 (A chorus of ayes.)

8 MR. CARTER: Opposed, same sign.

9 (No audible response.)

10 MR. CARTER: Motion carries.

11 Which then gives us a 15-minute jump start on
12 our next, which I think we will need for our materials
13 review and action.

14 So Kim.

15 MS. BURTON: Okay. How we work this is we go
16 again in order of crops, livestock, processing. The crop
17 materials that we will be discussing, reviewing today,
18 calcium oxide, calcium hydroxide, potassium sorbate,
19 sodium propionate, and sodium nitrate.

20 So I will now turn it over to the crops chair.

21 MR. BANDELE: I'm passing out the motion to --
22 material that we can deal with.

23 The first is calcium oxide. I'm making a
24 motion that calcium oxide is a synthetic material which

1 should be added to the National List with the following
2 annotations. Must be source from lime kilns. To be used
3 only when documented soil tests indicate sufficient or
4 excess magnesium. To be applied in a form that yields
5 less than a one degree Fahrenheit temperature increase
6 when equal volumes of the product and water are mixed.

7 Do I hear a second?

8 MS. OSTIGUY: Second.

9 MR. CARTER: Okay. Then it's been moved by
10 Owusu and seconded by Nancy. It's on the table for
11 discussion.

12 MS. BURTON: Question. The documented soil
13 tests -- what kind of impact is that going to have on the
14 farmers to actually conduct the soil tests as far as cost
15 and feasibility?

16 MR. BANDELE: Well, in most instances, like
17 regular soil tests already include magnesium levels. In
18 Louisiana, for example, I'm only aware of the cost there.
19 It's a \$4 test, Kim, which would include calcium,
20 magnesium, potassium, phosphorus, et cetera.

21 MS. KOENIG: Owusu, can you indicate the votes
22 of the committee?

23 MR. BANDELE: Oh, yes. The vote on that item
24 was four in favor of the motion and one opposed. In other

1 words, the opposed person did not feel that this should be
2 added to the National List.

3 MR. SIEMON: Are we -- this annotation, I mean,
4 is this -- I hate to have this much of an annotation on
5 it. I agree wholeheartedly with a, but I just don't know
6 about the b and c.

7 MR. BANDELE: Well, let me elaborate on b and
8 c. As far as b is concerned, there are oftentimes when
9 magnesium is already at a sufficient or excess level. In
10 a lot of those cases, the only readily available source to
11 many farmers would be dolomitic lime, which includes
12 magnesium.

13 So if we're talking about maintaining soil
14 health, et cetera, it doesn't really make a lot of sense
15 to add additional magnesium when you only really need the
16 calcium. And as was indicated yesterday by some of the
17 presenters, a lot of times the magnesium would have
18 detrimental effects on uptake of other nutrients.

19 I should also point out that this was a very,
20 very difficult decision for us. We kind of went back and
21 forth on it. But there are some -- we feel, some unique
22 features about this product and we certainly don't want to
23 open up to a lot of synthetics.

24 But in this case, number one, the reason why it

1 is seen as being synthetic is the burning process, and
2 that's unlike some of the other synthetics. For example,
3 if you're talking about triple superphosphate, that
4 ingredient is treated with phosphoric acid, so there's a
5 difference there.

6 Secondly, it is our understanding that the
7 source of the calcium oxide is like a byproduct of the
8 process of retaining lime. So this byproduct then is
9 utilized, and we kind of felt that that was also a
10 sustainable practice in that we're using materials that
11 otherwise may not be used.

12 MR. CARTER: Rose.

13 MS. KOENIG: I was on the committee and I guess
14 I was the dissenting vote. And it's not that I don't feel
15 that the product is safe or that it has value in
16 agriculture production.

17 The thing that I want to caution, or my voting
18 for the dissension is, A, in 1995 the NOSB defined
19 synthetic as -- you know, and it's in the TAP -- as
20 combustion of minerals, any combustion of minerals to be
21 synthetic.

22 And then the product, at least calcium
23 hydroxide -- I'm not sure about calcium oxide -- yes, both
24 I guess, were -- well, calcium hydroxide, which you have

1 to have from calcium oxide, was a component of Bordeaux
2 mixture and lime sulphur for fungicide use, but it did not
3 approve the use of the soil amendment.

4 So this thing has come forth before the board
5 before, and certainly, we've got five new members that
6 might not know the history of some of these issues in
7 terms of mine minerals and, you know, synthetic processes.

8 But I think we -- you know, I'd like to caution those new
9 members and those members that have been here only a year
10 or two that it's important to look at that history and
11 understand why these products were not allowed.

12 And again, not to say that upon reading the
13 TAP, again, I thoroughly view it as a safe agriculture
14 input. But really, the distinction is does it belong in
15 organic systems? And what I see as the big problem is
16 that there's a slough of other mine minerals that you
17 could make the exact same argument for.

18 We looked at triple superphosphate before and
19 we did not approve that product. The petitioner who was
20 here was not -- I mean, we're looking at calcium oxide,
21 and I'll also speak about calcium hydroxide at the same
22 time because they're both products within the petitioner's
23 brand name product.

24 And we heard testimony on the benefits of that

1 brand name product, but we don't know the benefits --
2 we're not looking at that brand name products. We're
3 looking at the individual component, mine minerals, of
4 that product, so we have no proof to say that those
5 benefits came from those individual mine minerals.

6 We only have testimony that they say good
7 effects from that brand name product, which these are only
8 components of.

9 What else do I want to say. I'd just again
10 would just -- the other most important criteria in my mind
11 as far as when we're making these decision is are there
12 alternatives available and are they viable. And in the
13 TAP report, we saw limestone, gypsum, rock phosphate.

14 We approved calcium chloride in terms of foliar
15 application for calcium deficiency in plants during the
16 last TAP review process. Wood ash and poultry manure, all
17 sources of calcium. They're not as readily available --
18 I'll certainly admit that -- and perhaps don't provide
19 that quick fix that the growers are seeking, but there are
20 products available and I would caution the board, adding
21 synthetic products to our list where we do have natural
22 alternatives available.

23 MR. CARTER: Go ahead.

24 MR. BANDELE: Yes. On the third item, George,

1 that was -- I failed to address that issue, and that was
2 kind of added lastly based on the testimony that was held
3 yesterday and the fact that the petitioners felt that that
4 would be a good -- both the petitioners and one of the TAP
5 reviewers suggested that.

6 I appreciate and fully understand Rose's
7 concerns. However, as pointed out, even though there are
8 some alternatives, to me, as far as when we're talking
9 about sustainability, we do have to take into account
10 regional situations as well as the overall picture.

11 Now, if you say that limestone is -- for
12 example, if you say that dolomitic lime is a readily
13 available source, my contention would be that in those
14 cases where there's high magnesium that it's not really a
15 readily available source. I understand that the others
16 are available as well.

17 MS. KOENIG: I would just like to speak to
18 that. When we're approving -- number one, and I must
19 agree with George on this -- is that when we have a list
20 of annotations, it becomes burdensome not only for a group
21 like OMRI who does materials review of these products, but
22 just individual farmers.

23 They cannot access that information to make
24 sure that it's from kiln sources only, and we know that

1 probably the largest source of it doesn't come from that
2 area, so certainly, farmers in the area where Biocal
3 [phonetic] or whatever brand name is produced, it's very
4 easy for them to source that material.

5 But for you perhaps down in Louisiana, you may
6 not have full knowledge about the source of your product,
7 and you could easily be using a prohibited substance. So
8 I don't think -- based on the fact that we can't enforce
9 labelling of many of these products, we could be leading
10 farmers down the wrong road by approving something that
11 would never be clearly labeled and we have no enforcement
12 of that.

13 And again, it's a very burdensome task to put
14 on certifiers when you have three or four annotations. My
15 question is if you need so many annotations, is it really
16 a product that we want to list?

17 Additionally, as far as your, I guess,
18 magnesium situation, again, there are alternatives.
19 Again, not quick-fix alternatives as this product, but
20 again, we are adding is a clearly synthetic product that
21 we're putting onto a list, and one of those criteria is
22 are there organic equivalent alternatives.

23 Additionally I'd like to note that no other
24 certifier has allowed calcium oxide or calcium hydroxide

1 historically.

2 MR. BANDELE: No other --

3 MS. KOENIG: No other --

4 VOICE: That's not true.

5 MR. CARTER: Okay. First of all Willie and
6 then George.

7 MR. LOCKERETZ: No other than which one?

8 MS. KOENIG: Well, I -- maybe all the ones that
9 were listed in the tab. Perhaps there is an organization
10 in that local area that might have added it.

11 MR. CARTER: Okay. George, did you have --

12 MR. SIEMON: Well, Jim, do you know -- I heard
13 yesterday --

14 MR. CARTER: Jim.

15 MR. RIDDLE: Yes. Well, the TAP has a list
16 which shows that currently, certifiers do not allow it
17 because they have shifted to the National List, as they
18 rightly should. But historically, it has been allowed by
19 certifiers, but they took it off of their list to comply
20 with the National List.

21 So it has been used on certified organic farms
22 in the past. At least in the Midwest it certainly has.

23 MR. CARTER: Okay. Other discussion? I fail
24 to look down at this end of the table from time to time.

1 MS. KOENIG: Is there a possibility to get
2 clarification from the TAP reviewers, because according to
3 my TAP review, and I was only speaking to the TAP, in that
4 section, the status among U.S. certifiers, is that just
5 current status or was there historical -- I mean, I'd like
6 to get clarification on that.

7 MR. CARTER: Yes, I suppose -- I mean, we can
8 get clarification from the TAP reviewers. It's hard to --
9 because that delays --

10 VOICE: Well, there's people in this room that
11 know.

12 MS. KOENIG: Or the manufacturer. I mean, I
13 just want to know what --

14 VOICE: Who reviews this one.

15 MR. CARTER: Okay. So -- yes.

16 Emily, can you speak to this?

17 Okay. And then while she's coming forward, did
18 you have something or do you want to wait till we finish
19 with this?

20 MR. MATHEWS: Well, I'd need to say something
21 on annotations. We've got -- from our perspective, we
22 have two problems with the annotations, and I'm not
23 attacking this particular one. I'm just stating the fact
24 that when we take a material to the rulemaking process,

1 the attorneys are looking for any annotation to be very
2 short, and they have given -- historically have given us
3 problems over annotations.

4 We have another problem with annotations, and
5 that's through CODX. CODX, from my understanding, would
6 prefer that you either say it is approved or that it isn't
7 approved and forget the annotations. And Keith can say
8 more to that, if he's still around.

9 You got anything to add to that, Keith?

10 MR. CARTER: You need to come to the mic.
11 We're disciplining everybody here.

12 MR. SIEMON: About annotations, from kiln --
13 lime kilns, though, that's a source. That's a method of
14 production. I mean, to me, saying calcium oxide from lime
15 kilns is one continuous source. I mean, to me, that's
16 not like b and c or a different level of annotation.

17 MR. MATHEWS: Yes, and I have --

18 MR. SIEMON: B and c are conditions, kind of
19 like.

20 MR. MATHEWS: Yes, and there's -- that was part
21 of what I also wanted to say about this. You raised the
22 same concern that I'm raising -- that the annotation is
23 too long. And for one thing, I have a question on c is
24 why?

1 I mean, isn't that important? And so if we're
2 going to go with annotations, we need them to be as
3 minimal as possible, but I also want Keith to talk about
4 the aspect of the international side of this with
5 annotations.

6 MR. CARTER: Okay. So we have two -- Keith, if
7 you'd come forward, and then we'll have OMRI.

8 VOICE: OMRI?

9 MR. CARTER: OMRI. Hey, I've only had four
10 cups of coffee this morning. Actually, that's --

11 MR. JONES: I've only got two comments about
12 annotations. One, I think annotations are a problem from
13 an audit standpoint. You have essentially allowed the
14 material, okay. But then you've got this contingent on
15 here that, from an oversight and audit standpoint, makes
16 it very difficult.

17 In fact, one of the discussion points that came
18 up at CODX this time is do certifiers worldwide really
19 audit the annotations or just exactly what is the process,
20 and it's unclear that anybody is really auditing at the
21 annotation level. So that's just a practical matter of an
22 audit standpoint.

23 The second thing, though, is that as we begin
24 to kind of look to CODX to provide some harmonization in

1 lists, it's going to be really important to make sure that
2 if there is an annotation, it is succinct, it is clear,
3 because these things have to be translated through
4 languages worldwide.

5 And if you get an annotation that's six or
6 seven, you know, sentences long, particularly with the
7 French, it loses something in the translation. And so
8 it's just a pure fact question that you need to make them
9 succinct and from my bias working with CODX, I'd like to
10 see no annotations at all.

11 MR. SIEMON: But in this case, there seems to
12 be quite a bit of difference between the lime kiln
13 production and other production, so source from lime kiln
14 production -- is that too much of annotation?

15 MR. JONES: Well, that's -- I can't tell you,
16 George, what to do on a material, okay. That's a decision
17 of the board. I can tell you that a shorter annotation is
18 easier to work with than a longer annotation, and no
19 annotation is easier to work with than a shorter
20 annotation.

21 So that's my -- thanks.

22 MR. CARTER: Okay.

23 MS. KOENIG: The question was before the
24 national rule, what was the historical status of the

1 product?

2 MR. ZIMMER: Historically, we -- I think in
3 1985 or so, for organic farms we started using the product
4 called Biocal, which was --

5 MS. KOENIG: I'm talking about -- I don't want
6 to know testimonial about individual farms.

7 MR. ZIMMER: No, I mean --

8 MS. KOENIG: The specific question is what
9 certify -- if you have knowledge of the certifiers that
10 allowed it. If not --

11 MR. ZIMMER: Yes.

12 MS. KOENIG: -- maybe somebody else can speak
13 to it.

14 MR. ZIMMER: Yes. No, obviously, I was on OCA
15 board for awhile, and it was accepted by OCA, although
16 certifying agencies were accepting hydrated or kiln dust
17 or whatever we called it at that time. I think that
18 really a red flag came up when they started using kiln,
19 cement kilns, to burn toxic materials.

20 Then all of a sudden people started throwing up
21 red flags, and that's why lime kilns became so valuable.

22 MS. KOENIG: Right. I'm not -- I don't want
23 testimony --

24 MR. CARTER: Yes. Okay. All we need --

1 MS. KOENIG: CCOF --

2 MR. CARTER: The question is -- and this is not
3 a point for public testimony --

4 MS. KOENIG: CCOF, Oregon Tilth: What were the
5 status in those agencies?

6 MR. ZIMMER: All were acceptable. It was used
7 by --

8 MR. CARTER: Okay. Could I have -- okay. Let
9 me have -- I'd like to have Emily --

10 MR. ZIMMER: It was taken off. About three
11 years ago it was taken away.

12 MR. CARTER: Okay. I'd like to have Emily
13 just -- okay.

14 MS. BROWN: I did put the current status in
15 here because I assume that's what the board wants, but if
16 you want us to continue to dig into old past, we could do
17 that, too. But as far as I could find out, basically, and
18 as far as my knowledge was, a number of chapters of OCA
19 had always approved Biocal basically in the Midwest, and
20 it was not a national OCA decision either.

21 And then when OCA got more organized on
22 materials, it changed there. So as far as I know, the
23 California-Oregon till East Coast there was -- has never
24 been allowed.

1 I want to make one other point on this proposed
2 annotation about the heat of solution. If you look at the
3 TAP reviewer 3's comments -- can I do that?

4 MS. KOENIG: No. It's not fair.

5 MS. BROWN: Okay. Because -- all right. Well,
6 I'll just tell you --

7 MS. KOENIG: Okay. We know that we've read the
8 TAP review. It's not fair.

9 MR. CARTER: All right. Owusu.

10 MR. BANDELE: Yes. One other point on the
11 annotations. The problem with it, and I appreciate what
12 Keith has said, the problem, though, is that oftentimes
13 without the annotations, the material would not be
14 allowed. Without annotations, I would not vote for
15 calcium oxide. So that's the dilemma that we're in.

16 However, Dave, I'm not sure in terms of
17 parliamentary procedure, but as far as striking c, I
18 would -- if someone wanted to make that --

19 MR. CARTER: Okay. If someone -- the table is
20 open for any amendments at this point, so if anybody wants
21 to make an amendment.

22 Kim.

23 VOICE: He can make the amendment.

24 MR. CARTER: Yes. That's fine. Kim has got

1 her hand up.

2 MS. BURTON: I was going to make an amendment
3 to strike b and c and have the annotation, Must be source
4 from lime kilns only.

5 MR. CARTER: Okay. So there is an amendment
6 made by Kim, seconded by George, to strike the language in
7 b and c, leaving then only the annotation in a.

8 Discussion on the amendment? Okay. Jim.

9 MR. RIDDLE: Well, I'm looking at the
10 annotation for micronutrients in the rule.
11 Micronutrients -- not to be used as a defoliant,
12 herbicide, or desiccant. Those made from nitrates or
13 chlorides are not allowed. Soil deficiency must be
14 documented by testing.

15 There's an example of a standing annotation. I
16 think it is important to document deficiency, and that is
17 something that's clearly auditable. The inspectors do
18 look at that whenever micronutrients are being used
19 currently, and it would be a reasonable thing to audit for
20 any use of this material.

21 So I guess I oppose the amendment specifically
22 striking b. I'd like to retain the requirement for soil
23 testing in this annotation.

24 MR. CARTER: You can add an amendment to the

1 amendment.

2 MR. RIDDLE: Well, it would be contrary to --
3 yes. Well --

4 MS. KOENIG: The only reason for soil testing,
5 as far as I can understand, is I guess to really address
6 specific farmers' problems, and I'm not saying that
7 they're, again, I'm not saying anything against addressing
8 specific farmers' problems.

9 But it's because they don't want to use
10 dolomitic forms -- there's other forms such as poultry
11 manure, wood ash, that you wouldn't have that -- gypsum,
12 that you wouldn't have that magnesium requirement. It's
13 just that they're slower released forms of calcium.

14 MR. CARTER: Jim.

15 MR. RIDDLE: Well, I do question if wood ash is
16 available in any commercial quantities. Certainly for a
17 home gardener that has a wood stove, yes.

18 MS. KOENIG: Well, I'm not saying -- but their
19 poultry manure and crushed limestone and gypsum is
20 definitely available.

21 MR. RIDDLE: Yes. To me, the two sources are
22 gypsum and calcium carbonate that are commercially
23 available from natural sources, and that's the thing that
24 I'm really still weighing here, because those are fully

1 compatible with the rule and with the principles and they
2 are available, but they don't serve exactly the same
3 function.

4 But I look at this material, and I don't -- I
5 see that it is also compatible with the very fundamental
6 principle of soil ecology. It doesn't have negative
7 impacts on the soil micro-organisms.

8 MS. KOENIG: That's not necessarily the case.
9 You may feel a case from maybe the brand name product, but
10 if you read the TAP review you're adding the -- you're
11 altering pH, which can affect soil microbes. I mean, it's
12 a liming product, and if you allow it and you don't
13 specify -- again, depending on the annotation, people can
14 use it as a liming product also.

15 I mean, the problem is is when you have
16 testimony in a brand name use, but you're not listing that
17 brand name product. You're listing the components of that
18 product. So once you open that up, it can be used for
19 whatever purpose by any organic grower in any region.

20 MR. BANDELE: I would suggest that we address
21 the amendments.

22 MR. CARTER: Yes. This is strictly discussion
23 on the amendment. Strictly on the amendment. I'm
24 sorry -- I was -- Owusu, go ahead.

1 MR. BANDELE: I would like to maybe offer -- I
2 would like to see that the annotation is voted on
3 separately, so I suppose a friendly amendment would do
4 that in terms of just --

5 MR. CARTER: The chair will accept that as a
6 friendly amendment that we vote separately on each
7 annotation and then on the motion as a whole. Okay. Is
8 that acceptable to the board?

9 MS. KOENIG: It's not acceptable to me. I
10 mean, I like to know what I'm voting for, because it's the
11 package we're voting on. So I suggest a motion be in the
12 form of what the committee chair feels is the -- I mean,
13 it's very basic.

14 He can make an opinion on his own, because it's
15 not a committee decision at this point. But --

16 MR. CARTER: Okay. What the procedure would
17 be, though, Rose, is we vote on each amendment. Then we
18 bring the whole motion up as a whole with whatever
19 annotations then are left in or taken out. Okay?

20 Okay. Is that acceptable?

21 MS. KOENIG: I guess.

22 MR. CARTER: Okay. It's like a new car --
23 we're taking it for a test drive here.

24 Okay. Now, Rick has also had some thoughts

1 about where this might fit, too, just before we vote on
2 that.

3 MR. MATHEWS: I would think that the annotation
4 b that deals with the magnesium is probably already
5 adequately addressed in 205.203(d), and the board may want
6 to take a look at that and make their own decision as to
7 whether or not that section already covers the annotation.

8 MS. KOENIG: Can you just read it?

9 MR. MATHEWS: Sure. D says, A producer may
10 manage crop nutrients and soil fertility to maintain or
11 improve soil organic matter content in a manner that does
12 not contribute to contamination of crops, soil, or water
13 by plant nutrients, pathogenic organisms, heavy metals, or
14 residues of prohibited substances by applying: one, crop
15 nutrient or soil amendment included on the National List
16 of synthetic substances allowed for use in organic crop
17 production.

18 Number two, a mine substance of low solubility.

19 Three, a mine substance of high solubility, provided that
20 the substance is used in compliance with the conditions
21 established in the National List of nonsynthetic materials
22 prohibited for crop production.

23 Do you want me to keep going, because there's a
24 number four and a number five and -- I mean, that's the

1 point.

2 MS. CAUGHLAN: This is a synthetic or would be
3 a synthetic --

4 MR. CARTER: Turn on your microphone, Goldie.

5 MS. CAUGHLAN: It doesn't apply, as I read it,
6 because this -- if we, as we vote on this as a synthetic,
7 what you just -- what we're looking at here is -- applies
8 to nonsynthetics.

9 MS. BURTON: Is that on the National List?

10 MS. CAUGHLAN: No, it says here --

11 MR. MATHEWS: Read number one. It says, A crop
12 nutrient or soil amendment included on the National List
13 of synthetic substances allowed for use in organic crop
14 production.

15 MS. CAUGHLAN: But as you read, as we read,
16 that the substance is used in compliance with the
17 condition -- oh, okay. Established on the National List
18 of nonsynthetics, so -- okay.

19 MR. SIEMON: Are we on the annotations now?

20 MR. CARTER: Yes. We're on the annotations.
21 Okay. The amendment was made -- yes.

22 VOICE: Turn on the microphone.

23 MR. CARTER: Okay. Just to keep this
24 procedurally -- so that we know, okay. The amendment that

1 is made is -- first of all, let's just do the amendment
2 that we vote on each of these individually, okay.

3 Is there a second to that amendment? This is
4 just a procedural thing. Is there a second that we vote
5 on each of these --

6 MR. HOLBROOK: I second it.

7 MR. CARTER: Okay. Who did that?

8 MR. HOLBROOK: I did.

9 MR. CARTER: Dennis seconded that. Okay. So
10 the amendment that is on the table is that we vote on each
11 of these individually. All in favor of that process, say
12 aye.

13 (A chorus of ayes.)

14 MR. CARTER: Opposed? Okay. That process
15 carries. So we then take amendment -- or we take
16 Annotation A, Must be source from lime kilns.

17 Discussion on that? Are you ready to vote?

18 All in --

19 MS. KOENIG: The only discussion I have on that
20 is who will figure that out? Who -- you know, other than
21 if it doesn't get -- if it goes to an OMRI process, you
22 know, that could -- the brand could be or could not be,
23 and how are growers going to figure out that information
24 from a manufacturer?

1 MR. CARTER: Okay. Owusu.

2 MR. BANDELE: You could say the same for
3 Chilean nitrate, which is already allowed. They are both
4 synthetic and naturally occurring. So the same argument
5 could be said for things that already exist.

6 MR. CARTER: Okay. Kim.

7 MS. BURTON: We looked at a document yesterday
8 that was an affidavit that farmers, suppliers, anybody
9 could use that would validate that a material has been
10 used according to annotation, so it's an affidavit they
11 could sign and say -- put this annotation on it and send
12 it to the supplier and they'd have the documentation,

13 MR. CARTER: Okay. Other discussion? If
14 you're ready to vote, all in favor of Annotation A,
15 leaving that in, signify by saying aye.

16 (A chorus of ayes.)

17 MS. KOENIG: Aye.

18 MR. CARTER: Opposed, same sign. Okay. It
19 carries on a vote of -- let's see, we're 14. I guess
20 we're one short -- 14 to one -- or 13 to one, excuse me,
21 with Rose voting nay.

22 Okay. Second, the annotation to be used only
23 when documented soil test indicates sufficient or excess
24 magnesium. Discussion on that?

1 Yes. Kim and then Owusu.

2 MS. BURTON: I would just suggest that you
3 change that to say, Soil tests must indicate insufficient
4 or excess magnesium.

5 MR. CARTER: Okay.

6 MS. BURTON: An amendment.

7 MR. RIDDLE: I second.

8 MR. CARTER: Okay. So read your language
9 again.

10 MS. BURTON: Strike, To be used only when
11 documented, and so it would read, Soil tests must indicate
12 sufficient or excess magnesium.

13 MR. CARTER: Okay. So what's on the table is
14 to change that language, Soil tests must indicate
15 sufficient or excess -- yes. Rose.

16 MS. KOENIG: I guess again, I would caution the
17 board of writing or even approving a product that's based
18 on a soil test for a totally different mineral than what
19 you're adding. I mean, you're really -- again, what are
20 we doing here? We're basically writing a rule to meet a
21 very specific application. Is that what we want to do?

22 MR. CARTER: Okay. Other discussion?

23 MR. SIEMON: Just to make the point that --
24 just to follow that up, I think we're -- there's a lot of

1 different theories of the relationship of calcium to
2 magnesium, and we're trying to say, Whose theory are we
3 saying is the correct theory in this kind of annotation,
4 and I don't think that's our role.

5 I think the guidelines that Rick read give us
6 enough guidance as to the use of minerals.

7 MR. CARTER: Okay. Owusu.

8 MR. BANDELE: I don't agree with Rick that
9 that -- first of all, it says the producer may do these
10 things, what you just said, so they're not really bound by
11 that. And secondly, I think irregardless of theory, if,
12 for example, most agencies that are in the soil testing
13 arena find that there's excess magnesium, to me, it makes
14 to sense to add additional magnesium. So to me, that's
15 not as theoretic as it may appear.

16 MR. CARTER: Okay. Jim.

17 MR. RIDDLE: I guess I am uncomfortable with
18 inclusion of the word sufficient in this. In my mind it
19 should read, Soil tests must indicate excess magnesium as
20 a condition for years.

21 MR. CARTER: Well, the only way -- we're so far
22 down the line, the only way that that can be accepted
23 right now is if that's agreeable to the maker of the
24 amendment. So that change is made.

1 Rose.

2 MS. KOENIG: Again, I'd like to remind the --
3 the product you're approving is not adding magnesium to
4 the soil. You know, what you're saying is that because
5 they don't want to add dolomitic limestone, then you can
6 add -- you have to use this product.

7 MR. RIDDLE: No.

8 MS. KOENIG: Yes, you are, because the product
9 has no magnesium in it. There's no reason why you
10 shouldn't be able to use a product whether there's
11 magnesium or not.

12 MR. CARTER: Jim.

13 MR. RIDDLE: You're saying what we'd be saying
14 is you may use this product; not that you have to use this
15 product. You still could use calcium carbonate. You
16 still could use gypsum, but you also have this option.
17 That's what it would be saying.

18 MS. KOENIG: Yes, but Jim, think about -- just
19 sit down and think about what that -- you are sitting, but
20 I could see if you are adding a product that had magnesium
21 in it, right, and you didn't want to overload your soil
22 with magnesium, so you said, Okay, you got to check to
23 make sure there's not a high amount of magnesium in your
24 soil, because you don't want to apply this product that's

1 going to override your magnesium.

2 But what you're saying is you have to check to
3 see if magnesium is in your soil, and if it's high, then
4 you're allowed to use this, even though you're not adding
5 any more magnesium to it, because we think that this is
6 better than a natural product, one of the natural
7 alternatives.

8 Again, you're customizing a rule for a very
9 specific soil type and purpose, and I would caution you
10 against it.

11 MR. CARTER: Okay. Owusu.

12 MR. BANDELE: Yes. That's really not the
13 intent of that annotation. The annotation is really
14 saying that, you know, in the sense that if your magnesium
15 is low that you want to use a natural product. You want
16 to -- you know, I mean, that's implying that you can use
17 dolomitic lime.

18 But in cases where it's -- I would say
19 sufficient or excess, because if you have a case where you
20 have sufficient magnesium, adding dolomitic lime will
21 probably push that into the excess earlier.

22 MS. KOENIG: Then use gypsum. Use crushed
23 limestone. Use the other alternatives. There's not one
24 alternative here that's natural. Why don't we say on it

1 then -- yes, again, if there's no natural alternatives, I
2 buy your argument.

3 But we're not -- you know, there's a list of
4 other sources that don't include that magnesium. So
5 justify it in your annotation. Don't write an annotation
6 that makes absolutely no sense.

7 MR. CARTER: The question has been called that
8 we vote. What we are voting on at this point is simply to
9 change the language in Annotation B from the original
10 language there to new language that would say, Soil tests
11 must indicate excess magnesium.

12 There will be a separate vote if this passes on
13 whether or not to include that language. So this is only
14 a motion to change the language. Whether or not you like
15 the annotation, this is a motion on whether you like the
16 new language better than you like the old language, okay?
17 Everybody understand? Okay.

18 MS. CAUGHLAN: Restate the language then.

19 MR. CARTER: So the new language being proposed
20 under the amendment is, Soil tests must indicate excess
21 magnesium, period. Okay. All in favor of that wording
22 change, indicate by saying aye.

23 (A chorus of ayes.)

24 MR. CARTER: Opposed, same sign.

1 (A chorus of nays.)

2 MR. CARTER: Okay. So would the nays hold up
3 their hands. Okay. It passed, with nays being Dennis,
4 Owusu, and Rose.

5 MR. RIDDLE: Mr. Chair --

6 MR. CARTER: Okay. We're back now to the
7 motion -- to the amendment to pass. Okay.

8 MR. RIDDLE: No. Yes, just a point of order.
9 Just to ask for abstentions on whatever you vote.

10 MR. CARTER: Oh, that's true. Yes. Not only
11 ask for abstentions, but I should have before we began
12 this starting asking if anybody needs to state a conflict
13 of interest on this particular issue. The chair
14 apologizes. How's that? Okay.

15 MR. SIDEMAN: David, may I ask you one thing?

16 MR. CARTER: Okay. Just if it's a point of
17 order.

18 MR. SIDEMAN: Well, it's sort of a point of
19 order. It's a point of personal --

20 MR. CARTER: Okay. Yes.

21 MR. SIDEMAN: OFPA makes provisions for
22 allowing synthetic materials, and that list of provisions
23 I don't think allows for synthetic sources of
24 macronutrients. So I don't think this could actually be

1 permitted under OFPA. Calcium is one of the six
2 macronutrients.

3 VOICE: That's testimony.

4 MR. CARTER: That's testimony. Yes. So
5 everybody's instructed to forget what Eric just said.

6 MS. KOENIG: I would like to point out, though,
7 due to the fact that we had committee member -- excuse
8 me -- we had committee members coming onto our committee
9 that didn't even vote that are present at this table.
10 Eric was still officially on the NOSB.

11 Now, I'm not saying that he can vote today, but
12 I'm saying he was voting in the committee reports before
13 the committee members attended.

14 MR. CARTER: Okay. I'll accept that. Okay.
15 The language, though, now what is -- yes?

16 MR. BANDELE: See, I always wanted a
17 clarification on this point, because to me, I understand
18 OFPA saying that, but it's my understanding that if a
19 petitioner petitions for a synthetic, then if it's added
20 to the National List it's allowed.

21 But if the point that Eric made is true, then
22 this whole discussion is moot.

23 MR. RIDDLE: Yes, I'd like that citation.

24 MS. BROWN: [indiscernible]

1 MR. CARTER: Slow down.

2 (Pause.)

3 MR. CARTER: Okay. Please take your seat.

4 Okay. It's covered by the TAP review, okay. So we will
5 proceed here, okay. So the discussion that is acceptable
6 at this point is we are only voting now on whether or not
7 to include Annotation B, which now reads, Soil tests must
8 indicate excess magnesium. Okay?

9 VOICE: No.

10 MR. CARTER: No? We only voted to change the
11 language. We didn't vote to accept. So this is what
12 we're voting to accept this annotation. All in favor, say
13 aye.

14 (A chorus of ayes.)

15 MR. CARTER: Opposed, same sign. Raise your
16 hand so we can note. Okay. So we have Kim, Rose, George.

17 Okay. Abstentions? Willie, Mark.

18 That fails, because there was -- if we got
19 13 -- okay, so we got 14. We got five -- yes, we needed
20 nine. Yes, we still needed ten.

21 Okay. The vote for. All those that were for
22 it, raise your hand. Let me just -- it's easier for me
23 to -- okay. Raise them high. Okay. Nine voted aye,
24 being less than the -- was it two-thirds?

1 MR. LOCKERETZ: Well, it's a two-thirds voting.
2 No, there were two abstentions.

3 MR. CARTER: There were two abstentions.
4 You're right. Okay. So that does carry.

5 Procedural. Yes, it's only -- you're right.
6 Okay. It's only if you're recused, so an abstention is in
7 effect a vote. Yes. Okay? So that fails. This
8 annotation is not included.

9 MR. LOCKERETZ: Mr. Chairman, I wasn't aware
10 that an abstention would count as a no vote, so I would
11 like to be able to change my vote from abstention.

12 VOICE: I move to reconsider.

13 MR. CARTER: Yes, you have to -- somebody that
14 voted on the prevailing side of this, which is the no
15 side, the abstentions have to vote for a motion to
16 reconsider.

17 MR. LOCKERETZ: I move a motion to reconsider.

18 MR. CARTER: Is there a second?

19 MR. KING: Second.

20 MR. CARTER: Okay. It's nondebatabable. All
21 those in favor of --

22 VOICE: Wait. Willie was the one who
23 abstained. Correct?

24 MR. CARTER: Yes.

1 VOICE: Then how can he -- he can't make the
2 motion.

3 MS. BRICKERY: No, he cannot. An abstention
4 counts for purposes of people present voting but not for
5 this purpose.

6 MR. CARTER: Okay. Carolyn will be the
7 official parliamentarian here. Okay. So that is -- okay.
8 Is there anybody that voted no that is willing to make a
9 motion for reconsideration?

10 MR. LOCKERETZ: Well, since abstentions are
11 counted as no, is there a difference here?

12 VOICE: They're not counted as a yes or no.

13 MR. SIEMON: Yes. I'll make that motion.

14 MR. CARTER: Okay. George voting -- and you
15 voted no. Right? Okay. So George, having voted on the
16 prevailing side, making the motion. Is there a second?

17 MR. BANDELE: From anybody?

18 MR. CARTER: Yes.

19 MR. BANDELE: I'll second.

20 MR. CARTER: Okay. The motion to reconsider is
21 back on the table. All in favor of reconsidering this
22 motion, say aye.

23 (A chorus of ayes.)

24 MR. CARTER: Opposed, same sign.

1 (No audible response.)

2 MR. CARTER: Okay. There was one no. Okay.
3 So the motion that is back on the table to be voted on is
4 including Annotation B, Soil tests must indicate excess
5 magnesium. All in favor, say aye.

6 (A chorus of ayes.)

7 MR. CARTER: Opposed, same sign. Okay. Just
8 four -- okay. High -- no's, hold them high. Be proud
9 of -- okay. Three no's. Abstentions? No abstentions.
10 Okay. So the motion then carries. This is included.

11 Okay. We are now down to the third one. To e
12 applied in a form that yields less than one degree
13 Fahrenheit temperature increase when equal volumes of the
14 product and water are mixed.

15 All of those in favor of including this
16 annotation, say ayes.

17 (A chorus of ayes.)

18 MR. CARTER: Okay. All those opposed, nay.
19 Hold them high.

20 (A chorus of nays.)

21 MR. CARTER: Okay. So this annotation -- oh,
22 abstentions? Thank you. Okay. One abstention.

23 Okay. So this annotation is removed.

24 We are now voting on the motion as amended

1 which, at this point, says, Calcium oxide is a synthetic
2 material which should be added to the National List with
3 the following annotations: (a) must be source from lime
4 kilns, and (b) soil tests must indicate excess magnesium.

5 Are you ready to vote on the motion as amended?

6 Owusu.

7 MR. BANDELE: Yes. I don't understand -- the
8 point that I raised earlier. The answer was it's already
9 in the TAP. But to me, I didn't get an answer. So my
10 question is: Can a synthetic fertilizer be added to the
11 National List and still be in the spirit of the Act?
12 Because if that's not true, you know, it's moot.

13 MR. CARTER: Jim.

14 MR. RIDDLE: Well, they certainly can be
15 petitioned and considered, in my mind. But I may seem
16 schizophrenic on this one, but I was supporting the
17 annotations because I think if it is going to be approved,
18 there do need to be some tight restrictions on the source
19 and the justification documentation.

20 But in looking back at OFPA, I think the
21 section above the one that was referenced is really the
22 relevant one, and that is, Is necessary to the production
23 or handling of the agricultural product because of
24 unavailability of wholly-natural substitute products.

1 And I'm -- and clearly, this material does have
2 wholly-natural substitute products which provide the same
3 nutrient.

4 MR. SIEMON: I disagree.

5 MR. RIDDLE: You disagree. Well, you --

6 MR. SIEMON: On the availability --

7 MR. CARTER: Turn on your mic, George.

8 MR. SIEMON: Not on the same availability
9 basis.

10 MS. KOENIG: George, triple superphosphate
11 also, which we did not vote for, it also has more
12 availability. There's a lot of things that are a hell of
13 a lot easier to use and a lot quicker sources, but they're
14 not organic. Remember why we're here.

15 MR. CARTER: Okay. Kim.

16 MS. BURTON: Just a comment. When OFPA was
17 written, there was quite a few -- even as far as
18 processing goes, there was some synthetics that weren't
19 allowed in processing, so we are allowing other materials
20 on the National List in the processing arena that aren't
21 provided for by OFPA.

22 So OFPA, even though it's the bible, it was
23 written quite awhile ago. I just want to put that point
24 of order in.

1 MR. CARTER: Okay. George and then we'll --

2 MR. SIEMON: Yes. My whole concern about this
3 is first of all it's a definition of synthetic. This is a
4 burn product. You know, a natural product that's
5 burned -- that makes a synthetic. But you know, our goal
6 is to raise nutritious feed.

7 This afternoon we got a proposal to allow the
8 same item as a feed additive. Okay. So what we're saying
9 is if this afternoon works, we're going to allow it as a
10 feed additive but we're not going to allow -- and yes, it
11 is a quick fix because of the one year to get the calcium
12 level up in that feed to avoid that final feed additive.

13 It's a balanced thing. I think the synthetic
14 is debatable, and I'm not sure why we don't want to raise
15 nutritious feed.

16 MR. CARTER: Okay. Rose.

17 MS. KOENIG: I think that you don't have to
18 look at it. They're not one and the same. We're looking
19 at this as a soil amendment. We've approved it in crops,
20 in Bordeaux mixture, and other components for fungicide
21 use.

22 You get into the soil and soil amendments and
23 fertilizers in soil use, it's a whole different animal,
24 and I think you can separate those issues. You should

1 separate those issues. We're looking at each specific
2 product for their intended use.

3 MR. SIEMON: Yes, but the goal is to get as
4 close to the soil as possible. This is getting close to
5 the soil rather than adding it in the feed later on.
6 That's the purpose of this.

7 MR. CARTER: Okay. The question has been
8 called. So the motion that is on the table at this point
9 is voting strictly on, Calcium oxide is a synthetic
10 material which should be added to the National List with
11 the following annotations: A, must be sourced from lime
12 kilns, and B, soil tests must indicate excess magnesium.

13 All those in favor of including this signify by
14 saying aye.

15 VOICE: Let's do a hand vote here.

16 MR. CARTER: Okay. Hand vote. All those in
17 favor, say aye. Okay. Hold them high. Yes. One, two,
18 three, four, five, six.

19 Okay. All those opposed? Seven.

20 Abstentions? One.

21 Okay. So the motion fails.

22 MS. BRICKERY: Dave.

23 MR. CARTER: Yes? Parliamentary privilege.

24 You have to push on your mic.

1 MS. BRICKERY: I thought the level of debate on
2 this was great. I loved it. We never had debates like
3 this when I was chair. There must be a reason for that.

4 MR. CARTER: Do you want to get back on?

5 MS. BRICKERY: I want to get back on. Rose,
6 you were great. However, I have a very serious point to
7 make, which is I really think you've got to look at each
8 of these materials on its own merits and not get hung up
9 on these annotations.

10 There are legal problems with doing these
11 annotations. We were told that the day I came on the
12 board. The Office of General Counsel has a lot of trouble
13 with these annotations. And picture yourself defending
14 the material you just voted on with these annotations if
15 you're Rick. It's going to be tough.

16 I mean, you know, it's convoluted. The
17 reviewers are going to say, Well, how do we even know how
18 you can find out what these sources are. It gets the
19 group confused because you end up focusing on the tail
20 rather than the dog. I don't mean anything pejorative
21 about this material in saying that, but, I mean, that's
22 the fact.

23 So I really urge you to look at these materials
24 as a material and decide whether or not you think it ought

1 to be approved. Then and only then look at whether
2 there's any kind of very specific limited restriction that
3 you want to put on it.

4 You want to use it only for, you know, carrots.

5 You want to use it only under conditions that won't allow
6 some toxic thing to happen. I mean, really be selective
7 about the criteria that you're looking at, and make sure
8 they can be enforced.

9 MR. CARTER: Well, and I agree with that,
10 Carolyn, but the whole idea is if a recommendation comes
11 forward with this number of annotations, someone may or
12 may not support the whole thing as a whole. But it still
13 gives them an opportunity to go through there and weed out
14 the ones and get it down to the number of annotations and
15 then look at that package as a whole.

16 MS. BRICKERY: But Mr. Chairman, I respectfully
17 point out that you have hundreds of these things to do.
18 You are not going to be able to spend the time you just
19 spent on each one of them --

20 MR. CARTER: Absolutely.

21 MS. BRICKERY: -- plus all the time that the
22 committee spent in its very respectful and thorough
23 deliberations and all the time the TAP reviewers spent.
24 So don't rely on these annotations to determine whether or

1 not you're going to approve a material or not.

2 Look at the material, then take a position on
3 whether there should be a very, very tightly limited
4 annotation.

5 MR. CARTER: We'll take that under advisement.

6 MS. BRICKERY: Thank you.

7 MR. MATHEWS: She did miss one thing -- all the
8 time we're going to have to take justifying it.

9 MR. CARTER: Okay.

10 MR. BANDELE: On the second motion, change
11 calcium oxide to calcium hydroxide.

12 MR. CARTER: Okay. Proceed.

13 MR. BANDELE: I'm making the motion that
14 calcium hydroxide synthetic be used -- should be added to
15 the National List with the following annotations: Must be
16 sourced from lime kilns, to be used only when documented
17 soil test indicates reasonable or excessive magnesium; to
18 be applied in a form that yields less than a one-degree
19 Fahrenheit temperature increase when equal volumes of the
20 product and water are mixed.

21 MR. CARTER: Okay. There's been a motion on
22 the table. Is there a second?

23 MS. OSTIGUY: Second.

24 MR. CARTER: Okay. It's been seconded. Okay,

1 the seconder was Nancy.

2 Okay. Discussion on this motion?

3 MS. CAUGHLAN: What was the vote within the
4 committee on this? I'd like to know that.

5 MR. BANDELE: The vote was the same. Four in
6 favor, one opposing.

7 MR. CARTER: Okay. Rose.

8 MS. KOENIG: I'm not sure how much we have to
9 discuss it. I think the arguments are exactly the same as
10 the previous product.

11 MR. CARTER: Okay. So noted. Does everybody
12 understand? There's this same song, verse two. Okay.
13 Are you ready to vote? Okay.

14 MR. SIEMON: The same with d and e and f?

15 MR. CARTER: This is all just the same. This
16 has been the proposed language. I think procedurally,
17 everybody here understands that we're going through --
18 essentially, we don't want to go through all of the same
19 debate we did on the previous one.

20 MR. SIEMON: So the same annotations as for
21 oxide?

22 MR. CARTER: No. This is just this language --
23 this here. Okay?

24 MS. CAUGHLAN: Point. I'm assuming -- just a

1 correction here -- that you're meaning a, b, and c.
2 You're not meaning d, e and f?

3 MR. CARTER: Kim.

4 MS. BURTON: Instead of just going through a
5 lot of time and effort here, can I just make a motion that
6 we vote on calcium hydroxide with the same annotations as
7 the previous material, calcium oxide?

8 MS. OSTIGUY: Second.

9 MR. CARTER: Okay. It's been moved and
10 seconded by Nancy that we just change all of this to the
11 same language as the previous only before we dispense with
12 this one. Okay? Understand that. Just changing the
13 language.

14 Okay. All those in favor, signify by saying
15 aye.

16 (A chorus of ayes.)

17 MR. CARTER: Opposed, same sign.

18 (No audible response.)

19 MR. CARTER: Okay. That carries. So we're
20 essentially voting on the substitute language, which is
21 the same language that we defeated in the previous one.

22 All of those -- we're ready to vote, as I
23 understand -- all of those in favor of calcium hydroxide
24 reworded to the previous language, signify by saying aye.

1 (A chorus of ayes.)

2 MR. CARTER: Okay. Hold your hands up. Okay.

3 Two.

4 All of those opposed? Hold them up high.

5 Nine.

6 Abstentions? One abstention.

7 The motion fails.

8 MR. BANDELE: Sir, the potassium sorbate is a
9 synthetic material that should not be added to the
10 National List. That's a motion.

11 MS. OSTIGUY: Second.

12 MR. CARTER: Okay. I'm sorry. Motion was made
13 to potassium sorbate synthetic material should not be
14 added to the National List. It was seconded by Nancy.
15 Okay. Discussion on the motion.

16 George.

17 MR. SIEMON: Just to point out the livestock
18 committee has put the same material forward for use in
19 herd health items, medications. So I just don't know what
20 the relationship. I guess that's going to be whole other
21 TAP review is what that will boil down to? I just want to
22 make the point because it's just coming forward right now.

23 MR. CARTER: It's for a separate purpose, so
24 yes. If you're ready to vote --

1 MR. BANDELE: I just want to add that in this
2 particular petition, as you are probably aware, it was
3 recommended as a seed treatment in an organic seed
4 treatment compound which was not actually spelled out, so
5 no one really knew what the substance was that they were
6 adding this to.

7 So the reviewers felt that there was not even
8 enough information to make an intelligent decision on that
9 basically and the committee felt the same.

10 MR. CARTER: Okay. Kim.

11 MS. BURTON: Owusu, can you tell me how the
12 committee voted on this?

13 MR. BANDELE: Oh. Sorry, Kim. That was
14 unanimous -- five to zero.

15 MR. CARTER: All right. Ready to vote? Okay.
16 Does anybody have a conflict of interest on this? Okay.
17 I see none.

18 All those in favor of the motion that this
19 material not be added to the National List, signify by
20 saying aye.

21 (A chorus of ayes.)

22 MR. CARTER: Opposed, same sign.

23 (No audible response.)

24 MR. CARTER: That carries unanimously.

1 Next item. Oh, I'm sorry. Abstentions.

2 (No audible response.)

3 MR. CARTER: Okay. We'll all get it right
4 eventually.

5 MR. BANDELE: Motion that sodium propionate is
6 a synthetic material that should not be added to the
7 National List.

8 MS. OSTIGUY: Second.

9 MR. CARTER: Okay. It's been moved by Owusu,
10 seconded by Nancy, that it not be added to the National
11 List. Discussion?

12 MR. BANDELE: The vote on that, Kim, was five
13 to zero.

14 MS. BURTON: Thank you.

15 MR. CARTER: By God, we'll get this down.
16 Okay. Seeing no hands up for discussion, you're ready to
17 vote.

18 All those in favor of the motion that this
19 should not be added to the National List, signify by
20 saying aye.

21 (A chorus of ayes.)

22 MR. CARTER: Opposed, same sign.

23 (No audible response.)

24 MR. CARTER: Abstentions.

1 (No audible response.)

2 MR. CARTER: Okay. The motion carries. And we
3 even did our procedure right.

4 MR. BANDELE: Next motion is to postpone
5 consideration --

6 MR. CARTER: Turn on your mic, Owusu.

7 MR. BANDELE: Next motion, by five to zero
8 vote, is to postpone consideration of the two petitions
9 involving sodium nitrate until the September NOSB meeting.

10 MS. CAUGHLAN: Second.

11 MR. CARTER: Okay. It's been moved, this time
12 Goldie seconded, that it be postponed until the September
13 meeting on sodium nitrate. Okay. Discussion on the
14 motion.

15 Owusu.

16 MR. BANDELE: Just clarification. I think many
17 people are aware that there were some folks who supported
18 the use of sodium nitrate, felt that there was not enough
19 forewarning in terms of this petition to give them
20 adequate time to respond.

21 On the other hand, we did have a petition
22 pending involving the use of sodium nitrate in spirulina.

23 That petition involved exceeding the 20 percent
24 restriction. We felt that the petition had been in place

1 for so long that it really would not be fair to the
2 petitioner if we delayed that decision, but at the same
3 time, it was best to consider both at the same time.

4 So Kim, as chair of the materials committee,
5 contacted the petitioners and they in fact -- that is the
6 spiroolina petitioners -- and they in fact stated that they
7 had no problem with the September delay. In fact, they
8 would favor that.

9 So with that in mind, the committee voted five
10 to zero to postpone.

11 MR. CARTER: Okay. Discussion on the motion?
12 Willie.

13 MR. LOCKERETZ: Question for Rick. If we acted
14 in September on this, it would still be included in that
15 interim final rule that's being developed?

16 MR. MATHEWS: The September meeting will go
17 into a separate rulemaking docket. We are intending to
18 put it forward as a second interim final rule. The timing
19 on it, I'm not really sure, and of course we also have to
20 get cooperation from OGC as a interim final rule.

21 So I can't tell you that it will happen before
22 October 21.

23 MR. LOCKERETZ: Okay. Thank you.

24 MR. CARTER: Okay. Rose.

1 MS. KOENIG: Question. Clarification for Rick.
2 We voted during the last meeting that things that we made
3 decisionwise -- I mean, it was a recommendation that
4 certifiers be able to use that as a working kind of
5 document, and I'm not sure where that went, and it'd
6 probably be informative to let us and everyone else know.

7 MR. MATHEWS: That's still an issue to be
8 resolved with the attorneys, but the approach that we are
9 taking is similar to what we have taken for the interim
10 final rule, which is that the secretary really doesn't
11 have a say in putting something onto the list, so we would
12 argue that the board has already indicated its pleasure
13 and that we would just be carrying out the process.

14 So we will be asking the attorneys for
15 permission to say that it's okay, go ahead. But no
16 guarantees.

17 MR. CARTER: Okay. Seeing no one else ready to
18 speak, we'll proceed to vote.

19 All of those in favor of the motion, Postpone
20 consideration of two petitions involving sodium nitrate
21 until the September NOSB meeting, signify by saying aye.

22 (A chorus of ayes.)

23 MR. CARTER: Opposed, same sign.

24 (No audible response.)

1 MR. CARTER: Abstentions.

2 (No audible response.)

3 MR. CARTER: Okay.

4 MS. BURTON: Mr. Chair, the final motion from
5 crops is that spinosad is a nonsynthetic material that
6 should not be added to the National List.

7 MR. CARTER: Okay. Motion. Is there a second?

8 MR. HOLBROOK: I second the motion.

9 MR. CARTER: Okay. Seconded by Dennis. Okay.
10 Discussion. Okay. Let's start off with Owusu to explain
11 the motion. Then going to Rose.

12 MR. BANDELE: Yes. Point of clarification.
13 When we say that it should not be added to the National
14 List, that in effect says that it's a naturally-occurring
15 substance and it can be used. It is a byproduct of a
16 living organism.

17 The committee was concerned about certain
18 detrimental environmental potential conditions, namely,
19 damage to nontarget species like bees and other
20 pollinators and also to some aquatic life. However, we
21 did not add the annotation -- I'm sure some people were
22 glad that we did not -- because we felt that that's
23 already implied.

24 And in fact, the pesticides are to be used only

1 as a last resort already, and products such as rotenone,
2 which I know is another whole ballgame, has serious
3 concerns and people have to take those precautions.

4 So we felt that the precautions were already
5 spelled out, so we recommended this use without
6 annotation.

7 MR. CARTER: Willie next.

8 MR. LOCKERETZ: Just to clarify something. If
9 it's been called nonsynthetic, then to say it won't be
10 added to the list, National List, means it won't be added
11 to the list of prohibited nonsynthetics? The sense of
12 the -- I want to make sure we get the sense of the motion.

13 So a vote would -- their recommendation is not
14 to explicitly exclude it?

15 VOICES: Yes. Right.

16 MR. LOCKERETZ: Okay.

17 MR. CARTER: Wait a second. Wait a second.
18 Kim is next and then George. No, wait a second -- Rose is
19 next. I'm sorry.

20 MS. KOENIG: No, I just had wanted to point
21 that out.

22 MR. CARTER: Okay. Kim.

23 MS. BURTON: One question. This was petitioned
24 also for livestock, so I just want to clarify that this

1 would also be the vote for both crops and livestock. Just
2 for clarification.

3 MR. RIDDLE: So there won't be a separate vote?

4 MS. BURTON: I don't -- I suppose -- I don't
5 know -- George, did you work on this through livestock?

6 MR. SIEMON: No. We did not.

7 MS. BURTON: I just want to make sure that we
8 get it under both categories, and I'm not quite finished
9 yet. Rick is asking, just so that we make sure that we do
10 have this right, that the recommendation should read,
11 Spinosad is a nonsynthetic material that should be not
12 added to the National List of prohibited materials.

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

14 MS. BURTON: Yes.

15 MR. CARTER: Okay. Kim has made the amendment,
16 George has seconded, to add the words, of prohibited
17 substances, after the word List. Just discussion on this
18 amendment now.

19 Okay. All in favor of the amendment, signify
20 by saying aye.

21 (A chorus of ayes.)

22 MR. CARTER: Opposed, same sign.

23 (No audible response.)

24 MR. CARTER: Okay. So we're back to the

1 original -- on abstention, Jim abstains. Okay. So we're
2 back to the motion as amended, and I had next on my list
3 George.

4 MR. SIEMON: That's what I want to do.

5 MR. CARTER: Okay. Other discussion? Jim.

6 MR. RIDDLE: Yes. I have some problems with
7 this material, and I'd like to just quote some of the
8 things from the TAP review that I highlighted, which at
9 the very best I think should lead to some annotation, some
10 restrictions on the use of the material.

11 A repeated application could lead to some
12 buildup of spinosans. The soil microbes degrade spinosad
13 into other spinosans which are more persistent and
14 biologically active, so its breakdown products remain
15 toxic in the soil.

16 When it's applied to water, very little
17 hydrolysis occurs. The substance can be persistent. In
18 the absence of sunlight, the half-life appears to be at
19 least 200 days. There are many insects, including ants
20 and springtails, that could be impacted by the
21 insecticidal activity of spinosad.

22 It's broad spectrum. It's not selective. Has
23 a tendency to accumulate in fat and milk, if we're
24 considering it for livestock use. There are other

1 alternatives to the product that currently exist, and a
2 number of those are listed in the TAP review.

3 It can have negative impact on parasitoid
4 populations, negative impact on pollinators. I think
5 these are very serious ramifications as documented
6 toxicity to fish and aquatic invertebrates.

7 I just have -- highly toxic, highly toxic, to
8 marine mollusks. Just because we've allowed Rodenon as
9 another natural doesn't mean we should make the mistake
10 again. There are problems with Rodenon and were held up
11 by organic industry is criticized because of the use of
12 Rodenon which has some of these exact same toxicity,
13 especially the aquatic toxicity, and that -- you know,
14 making one mistake once doesn't mean we should repeat that
15 mistake.

16 At the very best, I'd like to see some
17 language, and I mentioned that yesterday, some annotation
18 developed so that it would be actually placed on the list
19 of prohibited natural materials with some very tight
20 restrictions on its use.

21 MR. CARTER: Okay. Nancy.

22 MS. OSTIGUY: The committee discussed the
23 possibility of annotations, and we basically came to the
24 conclusion that they would be incredibly difficult to

1 enforce. And in addition, as pesticides of any sort are
2 supposed to be items of last resort and to the organic
3 farmer, the specific problems with the hymenoptera and the
4 lepidoptera and the parasitaries are -- the point -- if
5 you are going to be farming organically, to adversely
6 impact your hymenopteras, your pollinators -- whether
7 we're talking honeybees or the native pollinators -- you
8 would be shooting yourself in the foot if you used this
9 material inappropriately.

10 The same thing with the parasitaries. The last
11 thing you want to do is decrease your parasitery
12 population. And the committee did discuss this quite
13 extensively. I was initially in favor of putting
14 restrictions on.

15 It became clear very quickly that it would be
16 incredibly difficult to enforce.

17 MR. CARTER: Okay. Kevin.

18 MR. O'RELL: What was the committee vote on
19 this?

20 MR. BANDELE: Committee vote was five-zero.

21 MR. CARTER: Okay. Other discussion?

22 Rose.

23 MS. KOENIG: I just want to reiterate what
24 Nancy said and acknowledge to Jim, everything you pointed

1 out was -- it's definitely of concern and it's not
2 something we're saying, This is a great tool. Go spray it
3 every day.

4 We're feeling that through the certification
5 process that those checks and balances should be there.
6 Now, you're more of a person that might be able to
7 enlighten us if we -- if you feel that there needs to be
8 in law those prohibitions so that you make sure.

9 But we felt like a good inspection and a good
10 farm plan, it would become very obvious if somebody was
11 just using it as a preventative method each week as they
12 were spraying. So that's -- I mean, I would defer that
13 opinion to you because you seem to have more experience
14 and you weren't there when we were discussing this.

15 MR. CARTER: Jim.

16 MR. RIDDLE: Well, yes, it's true that the
17 rule does require that in the organic plan that any
18 pesticide materials be used as the last resort; that they
19 have to implement all of the preventative measures in
20 terms of selection of varieties, cultural practices,
21 encouraging beneficials and all those sorts of things.

22 And, you know, I hear what Nancy's saying on
23 that, too. A person would be shooting themselves in the
24 foot. But on the other hand, we got to think about all of

1 the conventional farmers that are converting to organic
2 production, and they want to know, What can I use? What
3 is allowed, because of the recipe mentality, the input
4 mentality.

5 And so now, this is a broad spectrum tool, and
6 as an inspector, there's no guidance being given except
7 what's in the rule to get down to using Rodenon or now
8 spinosad. There's nothing to have any additional
9 considerations because of the toxicity and the persistence
10 of this material.

11 And especially, I mean, if this is going to be
12 wide open to livestock use, I don't think we've considered
13 those impacts at all, especially the fact that it can
14 accumulate in fats and milk.

15 MR. CARTER: Okay. Rose, then George, then I
16 have a question, then Mark.

17 MS. KOENIG: Well, again, the crops committee
18 did just look at it for crop application. We did have an
19 indication that livestock was going to listen to our
20 recommendation and then make perhaps a recommendation
21 following that, but we specifically looked at it in terms
22 of crop issues.

23 And there may be separate issues in livestock
24 where you might want to prohibit it for livestock use. Or

1 what I'm suggesting to you, Jim, is we're open to listen
2 to an annotation. When we started thinking of the
3 annotations again, it became this cumbersome list of
4 things and we thought, Hey, you know, those things any
5 qualified inspector should know -- should be checking when
6 somebody's spraying.

7 And so come up with a suggested annotation and
8 we would welcome that.

9 MS. BURTON: It seems to me that sometimes
10 when --

11 MR. CARTER: Just a second. Just a second.
12 George.

13 MR. SIEMON: Well, I just wanted to ask Jim.
14 You're referring to 316.317 when it was fed to the cattle
15 that there was absorption rate in fat and not that -- this
16 isn't for that purpose, so was that just an experiment
17 they did to see what the result was, because we're talking
18 about a surface application of this, as far as I know,
19 from what I can read in here.

20 MR. RIDDLE: There's no annotation that it
21 would be restricted to surface. If it's a natural
22 material, it could be found.

23 MR. SIEMON: Yes. I agree. I'm just -- but it
24 says they applied for the use as an external parasiticide,

1 it says, the petitioner did. I know we're not putting a
2 restriction on it.

3 MR. RIDDLE: Right.

4 MR. SIEMON: What was the feeding about. Do
5 you know? Just an experiment or another way to use it
6 or --

7 VOICE: Probably did it for EPA.

8 MR. SIEMON: EPA? Yes. I don't understand
9 the -- because it says external parasiticide.

10 MR. CARTER: Okay. I'll hold off on my
11 question till we get done with this discussion.

12 Mark.

13 MR. KING: Yes. Two quick things. One, to
14 speak to Jim's concern about new people coming into the
15 industry, I think that is a concern in terms of people
16 migrating to organic, because they're ramping up very
17 quickly.

18 And while I personally don't have any major
19 issues with this particular material, I guess the question
20 is how can we best communicate, you know, the philosophy
21 and really the principles in terms of how a material like
22 this would be used.

23 So -- and I don't know, I'm not -- you know,
24 don't have an answer for the annotation part of it, but it

1 seems that maybe that's the direction for us to go.

2 MR. CARTER: Goldie.

3 MS. CAUGHLAN: Pass.

4 MR. CARTER: Kim.

5 MS. BURTON: Just to comment. Looking at the
6 status among certifiers, it doesn't appear that many
7 certifiers have had annotations with this material. So I
8 agree with the committee that there should be no
9 annotations.

10 MR. CARTER: Nancy.

11 MS. OSTIGUY: I actually do agree with Jim's
12 concern about animal application. We did not consider
13 that, and since it is a fat-soluble substance, it can
14 absorb through the skin. So the fact that it is a topical
15 application, the intent does not prevent accumulation in
16 the fat.

17 MS. KOENIG: I was just going to address Mark's
18 question. I think there's two approaches as far as, you
19 know, how do you train or what do you provide for
20 transitional growers. I mean, one way is to place it
21 within the rule if we feel like it's a very -- you know,
22 if that's necessary.

23 The other thing is if ATRA is developing these
24 checksheet tools for growers that those kinds of policies

1 or informational guidance could be provided in that form
2 also, or you may want to do both.

3 MR. CARTER: Owusu.

4 MR. BANDELE: Yes. Nancy, I appreciate your
5 comments, but I don't think that would be a consideration
6 as we're considering it today, because we only looking at
7 it for crop use right here. Is that not right?

8 MR. CARTER: Okay. Kim.

9 MS. BURTON: Although it was petitioned for
10 crops and livestock, this review does focus on crops, so
11 we'll either have to review it at a separate time for
12 livestock, and I have go back and look at the actual
13 petition because this specifically says it was for crop,
14 unless OMRI has a comment about that.

15 MR. SIEMON: But just a point. No action is an
16 action, because it is at this time allowed on livestock,
17 because it's a natural. Right? We'd have to -- best
18 something that put annotations on it to do it.

19 MR. CARTER: Okay. Point of information from
20 OMRI.

21 MR. BAKER: Brian Baker, Organic Materials
22 Review Institute, for those of you I have not met. The
23 petitioner was requesting for evaluation to both crops and
24 livestock. However, it was determined that we should find

1 out whether or not the material is synthetic or
2 nonsynthetic and conduct the evaluation and act
3 appropriately from there.

4 To make most efficient use of limited
5 resources, we focused on crop production where most of the
6 use is concentrated. And the -- so again, that's the
7 reason we chose to review it. We did look at livestock,
8 as you can see from the TAP review.

9 And to respond to George's question, the
10 residue studies were based upon application to crops and
11 the contamination levels found in crops that were treated.

12 I don't have a copy of the Rutherford study with me, but
13 the methodology used was not direct feeding of the active
14 ingredient. It was crop residue and how crop residues
15 translated into residues in these food products.

16 MR. RIDDLE: I need clarification on that.
17 I've got several --

18 MR. CARTER: Go ahead.

19 MR. RIDDLE: Yes. A followup question, Brian.

20 Want to make sure I heard you correct that the ingestion
21 of the livestock was from consuming crop residues that had
22 been treated with spinosad --

23 MR. BAKER: Feed treated with spinosad.

24 MR. RIDDLE: Feed treated --

1 MR. BAKER: Foodstuffs, yes.

2 MR. RIDDLE: Right. And then it was showing up
3 in the fat and milk?

4 MR. BAKER: Correct.

5 MR. RIDDLE: I have problems.

6 MR. BANDELE: Brian, question on that.

7 MR. CARTER: Just one -- okay. Go ahead,
8 Owusu.

9 MR. BANDELE: Yes. In that study where the
10 recommended rates use are a much higher rate?

11 MR. BAKER: Again, I don't have the methodology
12 of the study with me. I can see if I can dig it up or if
13 one of you has a copy of the study with you. Again,
14 forgive my memory.

15 MR. CARTER: Let me -- before we go on with it,
16 let me interject my question here. In, I think it was
17 '98, OMRI looked at this and suggested to the manufacturer
18 that they reformulate. Is this -- was this petition a
19 different formulation of the substance than was done
20 recently?

21 MR. BAKER: Those are two separate issues. The
22 manufacturer applied to OMRI to have a brand name product
23 reviewed. OMRI made the determination at that time, that
24 the material was nonsynthetic and in OMRI's opinion, it

1 was the active itself was allowed under the Organic Foods
2 Production Act.

3 And it was the inert ingredients that were
4 found to be prohibited under the Organic Foods Production
5 Act so that -- and in order to have our work cross-checked
6 and to avoid conflicts, no OMRI employee was the
7 investigator.

8 We contracted with the Biointegral Resource
9 Center of Berkeley, California, to be the investigator on
10 this TAP review, and the review was done by Dr. William
11 Quarles.

12 MR. CARTER: Okay. George, you had a question?

13 MR. SIEMON: No. I was just going to make a
14 comment that just -- it's in 317.320 is what we're talking
15 about -- this livestock use, and it says, Feed fed
16 continue up to 10 parts per million, and I have no idea
17 what that relates to in -- from crop residue.

18 MR. CARTER: Okay. We have a petitioner
19 here -- yes. You can come forward with --

20 MR. ROBERTSON: My name is Sterett Robertson.
21 I'm with Diver [phonetic] Sciences. I thought I at least
22 would identify myself. Some of these questions that we
23 can, I think, answer. There was just a second ago I think
24 was simple, and I think the question about the

1 formulations. Pardon?

2 MR. CARTER: Get a little closer to the mic.

3 MR. ROBERTSON: Oh. Sorry. And --

4 MR. CARTER: The mic was made for short folks
5 like me.

6 MR. ROBERTSON: Yes. Right. The
7 formulation -- there was a component that was of concern
8 in the '98 review is my understanding. I'm fairly new to
9 this action myself. That has been removed and is in the
10 confidential statement of formula is in the process of
11 being reviewed right now.

12 The formulations that are intended for use in
13 this particular business is an 80 percent wetttable powder
14 and the GF-120, which is a fruit fly bait, and both of
15 those would meet all the organic guidelines. So --

16 MR. CARTER: Okay. Further discussion?
17 Willie.

18 MR. LOCKERETZ: There was a change in the
19 wording about adding to the National List to make it
20 clear. I think also it should be added which piece of the
21 National List we're adding it to so that the sense of
22 motion be absolutely clear.

23 We're adding it to -- the question is whether
24 to add it to the list of nonsynthetic substances

1 prohibited for use in organic crop production.

2 MS. BURTON: [inaudible].

3 MR. LOCKERETZ: Okay. But the list is question
4 is that list, so I think that --

5 MR. CARTER: Yes. The motion that is on the
6 table at this point is, Spinosad is a nonsynthetic
7 material that should not be added to the National List of
8 prohibited substances.

9 MR. LOCKERETZ: And if you want to put a Number
10 205.602 to make it --

11 MR. CARTER: Okay. Is that -- I mean, can we
12 do that?

13 MR. LOCKERETZ: That's a friendly amendment.

14 MR. CARTER: That's just -- I mean, yes, that's
15 where -- is there any -- yes. Okay.

16 MR. KING: Well, I think that's --

17 MR. CARTER: Okay. So we will just add that
18 above. Yes.

19 Okay. Jim. And let's start to prepare to
20 vote.

21 MR. RIDDLE: Yes. Well, I'm going to offer an
22 unfriendly amendment, and that is to change the
23 recommendation to add it to that very list for -- with the
24 exception for crop use only. So to add spinosad to the

1 list of prohibited nonsynthetic substances with the number
2 that Willie just had, except for crop use only, because I
3 don't think we should be adding it for broad livestock use
4 when we really haven't fully considered it.

5 MR. CARTER: Okay. First, do I hear a second?
6 Okay. It's dying for a lack of second. Okay. Now --

7 MS. CAUGHLAN: Second.

8 MR. CARTER: Okay. Go ahead.

9 MR. RIDDLE: Yes. Rick just pointed out that
10 that actually was the net effect of Willie's motion. Yes.
11 Right. Right. So I would withdraw the amendment, but
12 then I think we should look at adding it then to List 604
13 as a prohibited natural under 604, because we haven't
14 considered it for livestock, unless we're going -- well.

15 But anyway, I withdraw that motion and let's
16 just look at it for 602.

17 MR. CARTER: Okay. Kim.

18 MS. BURTON: Just a comment regarding the
19 livestock. Unless the livestock committee has done a
20 thorough job of evaluating this material, I suggest we
21 just not even discuss the livestock at this point. If
22 somebody wants to bring it back to the livestock
23 committee.

24 If they have a recommendation the September

1 meeting, then they bring it forth then.

2 MR. SIEMON: Well, I just need to understand.
3 If we just add this to -- that it's not going to be added
4 to 602, are we taking for granted that means it's not
5 added for the other ones also? Isn't that leaving a vague
6 hole?

7 MR. CARTER: Yes.

8 MR. SIEMON: I mean, I don't quite understand.
9 This product was petitioned for both uses. And I just
10 heard that we didn't do it for the one, and now we're
11 trying to make a decision based on just a teeny bit of
12 information towards livestock.

13 MR. CARTER: Right. And my understanding of
14 this that with the wording change is we are addressing
15 this only in the crops. Livestock is a decision that has
16 to be for another day.

17 Kim and then Owusu.

18 MS. BURTON: It was my understanding that this
19 was petitioned for crops and livestock. It's been on all
20 of our documentation to be reviewed by livestock. It's
21 even on the agenda to review for livestock. If the
22 livestock committee is not ready to review it and have not
23 put work into it, then we have to review it at the next
24 meeting.

1 MR. BANDELE: Yes. I was going to say --

2 MR. CARTER: Owusu.

3 MR. BANDELE: -- I agreed with what you said,
4 Dave. It seems to me that the way we traditionally do
5 things, we're dealing with the crops here so we should not
6 confuse that because the crops committee did not take into
7 consideration the uses for livestock.

8 So I think that should just be bored up during
9 the livestock segment if that in fact is what's going to
10 be done.

11 MR. CARTER: Okay. Are we ready to vote?
12 Okay. The motion that is on the table is, Spinosad is a
13 nonsynthetic material that should not be added to the
14 National List of prohibited substances under 205.02.

15 MS. CAUGHLAN: Ask for a conflict of interest.

16 MR. CARTER: Oh. Thank you, Goldie. Yes. Is
17 there anyone here who has a conflict of interest on this
18 issue?

19 (No audible response.)

20 MR. CARTER: Okay. All those in favor of the
21 motion, say aye.

22 (A chorus of ayes.)

23 MR. CARTER: Opposed?

24 VOICE: Voice.

1 MR. CARTER: Okay. One, two, three. Okay.
2 Three opposed.

3 Abstentions?

4 (No audible response.)

5 MR. CARTER: Okay. So on a vote of eleven to
6 three, the motion carries.

7 Okay. Does that conclude our crops?

8 Thank you, Owusu, for bringing this. I think
9 this was helpful.

10 Let's go to a break then, and ten minutes and
11 we will be back.

12 (Whereupon, a short recess was taken.)

13 MR. CARTER: Okay. Let's get in here and get
14 started. If you haven't finished your conversation, take
15 it in the hall. If it's a really juicy conversation, fill
16 me in on it later.

17 Okay. Let's move on now with the processing
18 committee.

19 MS. BURTON: Well, we actually -- the livestock
20 is next, but as we discussed earlier with the one
21 material, we're going to bring that back up in September.

22 So we'll move on to processing. We have five materials
23 under processing: gelatin, dewaxed flake shellac, calcium
24 stearates, diethylaminoethanol, DEAE, and glycerol

1 monooleates.

2 I wanted to make one comment as materials chair
3 on the gelatin material. We were reviewing this actually
4 for two separate petitions. One, for gelatin and then one
5 for capsules, and the petition for capsules came in and in
6 reality, it was a brand name review.

7 So we are just looking for -- we're looking at
8 gelatin, specifically as an ingredient or as a material,
9 so if there's any of the gelatin folks in the audience,
10 that's how we work this process -- or the capsule folks.

11 We work this process is that we do single
12 materials only, and I know that there was some concern and
13 some comments to the board as to why we're not actually be
14 approving the caps, but it's just the components of that.

15 So -- Mark.

16 MR. KING: Thanks, Kim.

17 Yes. As Kim said, the first one up is gelatin,
18 and it was petitioned primarily in this case as a
19 processing aid used to clarify teas and different
20 beverages. It's also used as a fining agent in wine.
21 It's a stabilizer, thickener, and a texturizer in a range
22 of products within the industry.

23 So it can also be used as a processing aid or
24 an ingredient. Background on this, gelatin, essentially

1 as the committee explored it, we found that it can be made
2 from different sources of collagen. It can be prepared in
3 ways that are more like cooking or in ways that could
4 render it as synthetic.

5 The TAP reviewers recommended that gelatin be
6 added to the National List. One recommended that it be
7 prohibited for use in organic processing and handling, in
8 this particular case.

9 After a lot of discussion, the committee came
10 up with the following recommendation, and I move that the
11 board accept this recommendation. And as you're reading,
12 as members of the board, I'd like to make one point of
13 clarification in the recommendation.

14 I have -- we, as a committee, have typed
15 gelatin to be listed in 205.606. And really what we're
16 saying is gelatin is applicable in this case to 205.606,
17 so I want to make that point of clarity for everyone.

18 So the recommendation reads, Gelatin -- and
19 we'll put in this case reads -- to be listed in 205.606,
20 nonorganically produced agricultural products allowed as
21 ingredients in or on processed products labeled as organic
22 or made with organic.

23 At the committee level this was approved five
24 to zero in this particular case, so it was unanimous. And

1 concluding this, I think --

2 MR. CARTER: Just saying if you made that as a
3 motion, is there a second?

4 MR. KING: Oh. Sorry.

5 MR. O'RELL: Second.

6 MR. CARTER: Okay. It's been seconded by
7 Kevin.

8 Okay. Go ahead.

9 MR. KING: Okay. Sorry. And so in concluding
10 this, this recommendation really determines gelatin to be
11 a nonorganically produced agricultural product that would
12 be included in 205.606 for products labeled as organic and
13 nonorganic.

14 MS. BURTON: [indiscernible]

15 MR. KING: Oh. Sorry. Yes. Thank you.

16 MR. CARTER: Okay. Is there discussion on the
17 motion then?

18 Okay. Rose.

19 MS. KOENIG: We're discussing the issue.

20 Right? How did the committee feel about some of the
21 allergic comments, I guess, on fish and -- I mean, there
22 was some -- you know, and then the potential for mad cow
23 contamination of -- from -- I know these are, you know,
24 risk factors that weren't -- that are unknown that right

1 now we -- but what were your discussions?

2 I'd just like to hear what your rationale was
3 on those.

4 MR. KING: Okay. I'll give a quick answer and
5 then Kim has a point to make, too. In looking at this, we
6 really looked at what the material is, and we do share
7 those concerns and then some of those were pointed out
8 with different risk factors.

9 But we looked at the material as well as what
10 the process of making the material was and found that as
11 did, you know, many of the -- much of the information in
12 the TAP as well as the reviewers that it was a natural, in
13 this case.

14 So that's how we came to that conclusion. But
15 we do share those concerns.

16 Kim.

17 MS. BURTON: We discussed that fully, because
18 especially in processing, you know, we're going to come up
19 against this quite often that food safety and organic, and
20 our conclusion and our strong conclusion, at least, the
21 processor reps is that food safety is handled by different
22 means and from allergens to all kinds of different areas.

23 So in this case, we are confident that the
24 processors are required to follow good manufacturing

1 practices and that these would be handled under that
2 arena.

3 MR. CARTER: Okay. Further discussion on the
4 motion? Okay. If we're ready to vote, the motion on the
5 table then is, Gelatin to be listed in 205.606
6 nonorganically --

7 MS. CAUGHLAN: Call for conflict of interest --

8 MR. CARTER: Just a second. I'm reading the
9 motion here. Produced agricultural products allowed as
10 ingredients in or on processed products labeled as organic
11 or made with organic. Okay.

12 Does anybody have a conflict of interest?

13 MS. BURTON: I have a comment.

14 MR. CARTER: Okay.

15 MS. BURTON: Although it is for beverages, to
16 the best of my knowledge we do not use gelatin in any of
17 our products.

18 MR. CARTER: Any others? Okay. You ready to
19 vote?

20 All of those in favor, say aye.

21 (A chorus of ayes.)

22 MR. CARTER: Opposed, same sign.

23 (No audible response.)

24 MR. CARTER: Motion carries unanimously.

1 MR. KING: Okay. Next up is orange shellac,
2 unbleached. Essentially in this particular case, it's
3 primarily petitioned as a coating agent. It's also used
4 in a number of other ways, as a color diluent, in this
5 case, a surface finishing agent, perhaps glazing and
6 polishing agents for use in confectionery and also in food
7 supplement tablets and as well as chewing gum.

8 What we found in this is that essentially,
9 shellac, as you may know, is derived from the hardened
10 secretion of the lac insect. The TAP reviewers were split
11 on this in the information that we reviewed, two
12 categorizing it as nonsynthetic, one as synthetic.

13 However, the reviewer determining orange
14 shellac, unbleached, as synthetic did state that impure
15 shellac appeared to be a natural product and that a strong
16 argument could be made for its compatibility with organic
17 handling principles.

18 So the committee looked at that and felt that
19 that was, you know, quote, unquote, almost unanimous. And
20 after reviewing the information determined that in this
21 case, shellac -- orange shellac, unbleached, is a
22 nonsynthetic agricultural material.

23 And I move that the board consider the
24 following recommendation. And again, I'll point out that

1 I have said to be listed in 205.606, and I just want to
2 clarify that what we're really saying here is that it's
3 applicable to 205.606.

4 So the recommendation -- move that the
5 recommendation be considered by the board is, Orange
6 shellac, unbleached, to be listed in 205.606
7 nonorganically produced agricultural products allowed as
8 ingredients in or on processed products labeled as organic
9 or made with organic.

10 MR. CARTER: Okay. The motion is -- actually,
11 that the board approved the following language is -- well,
12 his is that we consider this language. But what you're
13 saying is you want us to approve this language?

14 MR. KING: Yes. Yes. Okay.

15 MR. O'DELL: Second.

16 VOICE: Would you clarify what this new motion
17 is, please?

18 MR. CARTER: No, all it is is his motion that
19 we consider the language. To consider something doesn't
20 say that to approve it or not approve it. What the motion
21 actually was, I mean --

22 MR. KING: Okay. I'm sorry. I'm sorry.

23 MR. CARTER: -- I was just clarifying his is
24 that we approve this language.

1 VOICE: So we approve the motion?

2 MR. CARTER: Yes, we approve that.

3 MR. KING: Approve the motion, yes.

4 MR. CARTER: Yes. Then it's seconded by Kim.
5 Okay. Discussion.

6 Okay. Rose.

7 MS. KOENIG: I just had a question of -- I
8 guess, number one, the TAP review put it under processing
9 where to me, it looked almost like a crops type issue
10 because it was for oranges. So the recommendations were
11 kind of based on 95 percent made with organic products
12 and -- or, you know 70 percent -- or made with organic or
13 95 percent organic.

14 So I just didn't understand why the product
15 first came under processing if it really was for fruit
16 application, which I understand is a post-harvest
17 application, but it's not necessarily in my opinion a
18 processing issue.

19 MS. BURTON: Well, it's very similar to waxes
20 on apples or what-have-you, and that does fall under the
21 processing category of 605.

22 MR. CARTER: Okay. Further discussion?

23 MR. RIDDLE: Yes.

24 MR. CARTER: Jim.

1 MR. RIDDLE: Yes. Mark, twice now you've
2 mentioned the phrase, is applicable to 606. And maybe you
3 should explain -- or maybe I can try and then you and Kim
4 can correct me. But we'll be voting on another
5 recommendation later on a policy or a rule change
6 essentially to remove the list itself from 606, so the 606
7 language just pertains to nonorganic agricultural products
8 must be -- well, in an organic form if they're
9 commercially available.

10 So I think that's why you pointed out that
11 right now, we're recommending that they be listed, but
12 later we're going to be recommending that the list be
13 deleted itself as a list. So that's probably why you're
14 saying it's applicable to that.

15 It would fall under the requirements of
16 commercial availability. Correct?

17 MR. KING: Yes. That's absolutely correct.
18 And thank you for clarifying that, Jim.

19 MR. CARTER: Okay. Further discussion? Seeing
20 none, we'll proceed to vote.

21 MR. BANDELE: I have a question. I notice that
22 it said that the former NOSB board voted not to allow it
23 but at that time it was not determined to be bleached or
24 unbleached. So was that -- historically, was that the

1 major point by the former board found it to be not
2 compatible?

3 MS. BURTON: Yes. The former board voted
4 against this material in the bleached form. There was
5 also an inert ingredient that was on List 3 that they
6 reformulated to List 4. So it's a different product.

7 MR. CARTER: You look dazed and confused.

8 MS. KOENIG: Well, I just don't understand what
9 you're saying. Is that list -- aren't we just looking at
10 the product, unbleached shellac?

11 MR. KING: Yes. Yes.

12 MS. KOENIG: We're not looking at a brand name?

13 MR. KING: No.

14 MS. BURTON: No.

15 MR. CARTER: Okay. As we proceed to vote, is
16 there anybody that has -- oh. Dennis.

17 MR. HOLBROOK: I just want to mention that I
18 may have a conflict of interest here since I'm currently
19 using a wax on my citrus that contains shellac.

20 MR. CARTER: Okay.

21 MR. KING: Thanks, Dennis.

22 MR. CARTER: Thanks, Dennis. It's up to the
23 individual to decide.

24 Yes. Owusu.

1 MR. BANDELE: So one further clarification.
2 All right. So if this -- this will be approved for both
3 processed as well as the applications that Dennis is
4 speaking of in terms of fruit as well when we're approving
5 it. We're approving it for both or just for the
6 processed? Or is post-harvest considered processed?

7 MR. KING: That is -- yes. That is what it was
8 petitioned for. Yes.

9 MR. CARTER: Okay. Are we ready to vote?
10 Okay. The language on the table, Orange shellac,
11 unbleached, to be listed in 205.206, nonorganically
12 produced agricultural products allowed as ingredients in
13 or on processed products labeled as "organic" or "made
14 with organic."

15 All those in favor, say aye.

16 (A chorus of ayes.)

17 MR. CARTER: Opposed, same sign.

18 (No audible response.)

19 MR. CARTER: Abstentions. One abstention. The
20 motion carries.

21 MR. SIEMON: Just -- I'm sorry. I just missed
22 what just happened with Dennis. Is -- did we -- is this
23 allowed for using on fruit -- what we just passed -- or is
24 it just processed food?

1 MS. BURTON: Going under 605. Or I mean 606.

2 MR. SIEMON: But it says in or on processed
3 food. Is orange a processed food? I just want to make
4 sure.

5 MR. KING: Well, there's been -- I mean, it's a
6 post-harvest handling issue, but it has fallen under that
7 historically. Okay? All right.

8 MR. CARTER: Okay. Kim.

9 MS. BURTON: One comment. He recused himself,
10 and that should not be an abstention. It should be
11 recused so that it does not count in the vote.

12 MR. CARTER: Okay. Good point.

13 MR. BANDELE: Dave, I just -- I'm just really
14 unclear about that, even though I understand what you're
15 saying about the fruit. But the TAP reviews came in like
16 95 percent organic and 70 percent organic. So to me,
17 they're implying a further processed food rather than just
18 the fruit use.

19 MR. CARTER: Okay. These are questions that
20 should have been clarified before the vote. So we will
21 only have limited discussion on this.

22 Kim.

23 MS. BURTON: We deem this as a nonorganic
24 agricultural item, so it would fall under crops as that

1 category or under livestock -- or under processing in the
2 under 5 percent.

3 MR. CARTER: Okay. All right. Proceed.

4 MR. KING: Thank you. Next up, calcium
5 stearate is petitioned for use in the production of
6 organic food. So the background here is brief. The
7 processing committee voted unanimously to send the TAP
8 review back to the contractor for additional information.

9 So I move that the board vote on the language
10 or recommendation, TAP review for calcium stearate be sent
11 back to the contractor for additional information and be
12 deferred for consideration at the September 2002 National
13 Organic Standards Board meeting.

14 MR. CARTER: Okay. Who seconded?

15 MS. CAUGHLAN: Second.

16 MR. CARTER: Goldie seconded. Okay. It's on
17 the table for discussion.

18 MR. KING: And quickly, I'll just add the
19 committee vote in this case was four approved, zero
20 disapproved, and one absent. And what we found, to give
21 you a little bit more detail in this particular TAP
22 review, is that it simply was really inadequate in a lot
23 of areas.

24 An example would be that reviewers were citing

1 the actual petitioners provided information instead of
2 like industry documents, things of that nature. So
3 anyway, the committee felt unanimously that this should be
4 deferred until September.

5 MR. CARTER: Okay. Further discussion.

6 Jim.

7 MR. RIDDLE: Yes. It's my understanding that
8 if we support sending it back to the reviewer that Kim
9 would be communicating with them. And I would just
10 suggest that any board members who have any observations
11 about deficiencies of this TAP review, could they get
12 those to you, Kim, to help direct that communication?

13 MS. BURTON: Yes.

14 MR. CARTER: Okay. Other discussion? Seeing
15 no hands raised, we'll proceed to vote.

16 Okay. Conflict of interest on this issue?
17 Seeing none, the motion on the table is to approve the
18 language, TAP review for calcium stearate be sent back to
19 the contractor for additional information and be deferred
20 for consideration at the September 2002 National Organic
21 Standards Board meeting.

22 All those in favor of the motion, signify by
23 saying aye.

24 (A chorus of ayes.)

1 MR. CARTER: Opposed, same sign.

2 (No audible response.)

3 MR. CARTER: Abstentions?

4 (No audible response.)

5 MR. CARTER: Motion carries unanimously. Okay.

6 MR. KING: Okay. Next is diethylaminoethanol,
7 or DEAE. And this is a petition for use in boiler
8 chemical systems, and there's a lot of history here. This
9 was presented to the board initially in Buena Park,
10 California, in 2001.

11 There's been a lot of work done on volatile
12 amines in general, DEAE being one of those. Steve Parker
13 has been involved in this a lot from the beginning as
14 former chair of the processing committee, and so I'd like
15 to recognize Steve at this time and have him come forward
16 and give the new board members as well as those who are
17 not familiar with this process some history and background
18 on what we're talking about.

19 MR. HARPER: Thanks, Mark. Okay. Actually,
20 this started before the 2001 Buena Park meeting, but
21 because of the historical confusion, I'll start way back.

22 The historical confusion regarding volatile amines among
23 certifiers -- there's a need to get these volatile amines
24 petitioned and reviewed by the NOSB to get some

1 clarification on it.

2 The OTA MPPL committee basically agreed to help
3 out getting these in there. A number of industry members
4 stepped forward, and all of the four volatile amines were
5 petitioned, along with ammonium hydroxide, which is used
6 in a similar method to volatile amines in dairy plant
7 operations.

8 So they were all petitioned as a group, because
9 that's sort of the universe of volatile amines that are
10 used in processing plant applications.

11 I will tell -- let's see. Following that,
12 there was a TAP review done by OMRI, and this was in 2000,
13 and I can't remember all the exact dates back in 2000.
14 But TAP reviews were done on all of the materials at the
15 same time, as well as an excellent steam paper that was
16 done by OMRI, put together by OMRI.

17 Then at the 2001 meeting, the Buena Park 2001
18 meeting, I requested that a technical expert be brought --
19 or I brought in a technical expert and gave a presentation
20 to the board at that point on the use of volatile means in
21 food processing environment, because most of the board
22 members did not have a good understanding of what we were
23 even discussing and be able to understand that.

24 So subsequent to that, we also requested more

1 information -- so they were deferred at that point. FOIA
2 information was requested -- Freedom of Information was
3 requested from the FDA on all these materials, and all
4 that information did come through from the FDA except on
5 diethylaminoethanol.

6 So with those -- and at the same time, two
7 other things were done. Jim did a survey of -- or
8 requested information from certifiers on their historical
9 standards on these volatile amines. And then we also went
10 out and did a survey of processors to gather information
11 on use of these volatile amines to give us more
12 information on what was going on in the industry.

13 So all of that information was all collected,
14 and then finally at the -- at last -- the meeting last
15 fall, we voted on ammonium hydroxide, octadecylamine,
16 cyclohexylamine, and morpholine. Ammonium hydroxide was
17 allowed as a volatile amine to be used.

18 Cyclohexylamine was used for sanitizing -- or
19 sterilization, packaging sterilization purposes only. I
20 should say the ammonium hydroxide had a sunset clause of
21 three years from the time of the implementation of the
22 rule.

23 Octadecylamine also had the same annotation for
24 use in packaging sterilization purposes only. And then

1 morphyline was outright rejected by the board. And DEAE,
2 or diethylaminoethanol, was deferred because we had not
3 received back the FOIA information from the FDA. And so
4 then today we have received that back, and so that's where
5 we are at today.

6 Any questions about that? Or anybody have a
7 different recollection of sort of the history? Okay.
8 Thanks.

9 MR. KING: Thank you, Steve.

10 As an introduction concerning committee
11 discussion in this, essentially what we found is that DEAE
12 is petitioned for use in boiler chemical systems,
13 specifically to prevent carbonic acid corrosion in return
14 lines.

15 It can inhibit the corrosion by neutralizing
16 carbonic acid and steam condensates and by scavenging free
17 oxygen. So as Steve just explained to you, DEAE is a
18 volatile amine that's designed to travel, okay, with
19 boiler steam, all right.

20 In this case, boiler steam that can be used to
21 sterilize product packaging, to steam food, and to also
22 steam, for example, livestock feed products. While very
23 few processors, as we found in reviewing the information,
24 have migrated to modern technologies such as reverse

1 osmosis, stainless steel systems -- all these are things
2 or examples that would eliminate the need for volatile
3 amines.

4 Some of the processors continue to use volatile
5 amines such as DEAE essentially to maintain the integrity
6 of their boiler systems; something that would be a large
7 capital expense in this case.

8 Some background. In order for a substance to
9 be in or on, we're talking about essentially -- I won't go
10 over it verbatim -- 205.605 here, so that's what we're
11 talking about. So with that in mind, several companies
12 within the industry saw a need essentially to petition for
13 volatile amines, such as DEAE, in this case.

14 And we'll go into a little bit of that later.
15 As a couple members of the committee, because of that
16 we're, you know, recused from voting. So general
17 information here concerning boiler systems is that we've
18 talked about the integrity and that, as Steve has
19 indicated, this has really been on the table for awhile
20 and we've accumulated a lot of data.

21 So we've learned that some of the more recent
22 information in this case that some currently certified
23 processors have chosen to invest, as we've talked about,
24 in modern technologies such as reverse osmosis and

1 stainless steel systems, which essentially alleviates the
2 use, all right, of volatile amines such as DEAE.

3 Some of the information provided, without going
4 into a great deal of detail here, is that there was a
5 survey done and Steve was part of this survey. There were
6 many processors who responded to this, as I understand it.

7 That as many as 25 to 30 percent still use DEAE on a
8 regular basis, so to give you some indication of kind of
9 where we're at with that.

10 Further, some of these processors indicated
11 they did not use volatile amines through turning them off
12 during organic product runs. So that was indicated by
13 some, not all, some processors as an option for them in
14 processing organic products.

15 The TAP reviewers unanimously in this case
16 found DEAE to be synthetic and also unanimously
17 recommended the material be prohibited for use in products
18 labeled as organic. The FOIA information provided as part
19 of the TAP review was really unclear as to the GRAS status
20 of DEAE, so I think that's probably the more accurate way
21 of us depicting that.

22 So further, in reviewing both the TAP and the
23 FOIA information, the processing committee agreed with the
24 TAP review findings that DEAE does not meet the criteria

1 established by OFPA in the final rule.

2 One note or point of clarity I would make here
3 is that one of the criteria, Is there a natural
4 alternative? And the reviewers found that there was not.

5 You need to know that, okay. But as far as the rest of
6 the criteria, they felt that it didn't meet the criteria
7 established by OFPA in the final rule.

8 So the committee also received substantial
9 industry input depicting the need for DEAE. Specifically,
10 the entities providing input expressing concern that
11 prohibition in this case will present challenges for
12 certain processors in the organic industry, okay, and
13 requested the processing committee and the NOSB consider
14 the current need for the use of DEAE as a processing aid.

15 And there was a lot of this information that
16 came in through, you know, from several companies within
17 the organic industry. So after a lot of consideration and
18 looking at the industry information submitted, the current
19 need for DEAE by some processors operating within the
20 industry, the processing community in this case concluded,
21 as did the TAP review, that DEAE is not compatible with
22 the criteria set forth in OFPA in the final rule.

23 Having said that, there's the however. The
24 committee also diligently considered some of the input,

1 all right, from industry experts, companies with products
2 in the industry, and looked at, considered, the immediate
3 impact of this substance essentially going away.

4 So with all this in mind, I move that the board
5 consider or vote on the following recommendation. DEAE,
6 and you'll see above that is the section listed
7 205.605(b), Synthetics allowed. Diethylaminoethanol for
8 use as a boiler water additive for packaging sterilization
9 only. For use as a boiler water additive in agricultural
10 products labeled made with organic until October 21, 2005.

11 For use as a boiler water additive in livestock feed
12 until October 21, 2005.

13 MS. CAUGHLAN: Second.

14 MR. CARTER: Okay. The motion has been made
15 and is seconded by Goldie. Okay. Discussion.

16 Kim.

17 MS. BURTON: Okay. Call me Rosie for this one.
18 Couple of things. We've heard pleas of concern from the
19 livestock industry and materials, medicines, incipients,
20 all that sort of thing. We've heard pleas from certifiers
21 as far as giving us another 120 days on restructuring our
22 organizations.

23 This is one of those materials for processing.

24 We've put a lot of time and effort into it. We recognize

1 that there's a problem out there. We have a lot of very
2 small processors who are doing contract packing who
3 manufacture maybe 1 percent of their manufacturing for
4 organics, and they use this material.

5 We have made the recommendation -- a few of
6 us -- to allow this for use until 2005 so that the
7 industry can be prepared to eliminate this material from
8 organic processing.

9 I should also note that the few of us who have
10 to recuse ourselves were the ones, because we did submit
11 the petition, and do not solely agree with this
12 recommendation for this reason. Of course, we want it for
13 packaging sterilization. That's not a problem.

14 The uses of boiler water additive for made with
15 organic products only has a problem and it has a big
16 problem. If this committee and this board -- I take it
17 back to like a single ingredient. For example, look at
18 frozen peas that are going to be packaged as a finished
19 good, as a product, and you're going to have a single item
20 ingredient out there that's going to have a made with
21 label on it. It's going to be very confusing to the
22 consumer.

23 How do you have a made with peas with peas, if
24 that makes any sense to you. It does not make sense to

1 me. However, at the same time, I see this as a
2 compromise. It's not a good compromise and I don't agree
3 with it.

4 I would much rather see that we have a sunset
5 period for the time period until 2005 to allow this as a
6 boiler water additive so that the industry can correct the
7 problem and put our capital investments into it and try to
8 seek out some of the alternatives for this material.

9 So with that, I would like to make a
10 recommendation for a change in the annotation.

11 MR. CARTER: Is this an amendment?

12 MS. BURTON: Amendment.

13 MR. CARTER: Okay.

14 MR. RIDDLE: Point of order. If a person is
15 recusing themselves, can they make motions? I think not.
16 Isn't that true? If they can't vote, they can't make
17 motions. They can offer information.

18 MS. BURTON: Well, then I don't feel I should
19 recuse myself as the petitioner of this and somebody who
20 feels very strongly of making the recommendation of a
21 change of the sanitation.

22 MR. CARTER: Okay. First of all, let me ask --
23 is there anyone else that would make that amendment?
24 Okay.

1 Now, are you not recusing yourself?

2 MS. BURTON: No.

3 MR. CARTER: You're not? Not recusing
4 yourself?

5 MS. BURTON: Well, let me make a statement. A
6 group of people got together to petition this material.
7 Smucker's is one of them. We do not use boiler water
8 additives in our processing. All of our facilities are
9 geographically located to where either we do not need this
10 material or we shut it off because we have a very small
11 volume.

12 But again, it's confusing. And primarily I
13 would want to change this because I really think that made
14 with label is going to confuse the organic industry out
15 there. So --

16 MS. CAUGHLAN: Kim, do you have any co-packers
17 who would be affected by this?

18 MS. BURTON: No.

19 MS. CAUGHLAN: At this time?

20 MS. BURTON: Not at this time.

21 MR. CARTER: Okay.

22 MR. SIEMON: Are we going to deal with this
23 conflict of interest, because I'm right in with Kim. Same
24 story. So I think we need to settle this issue.

1 MR. CARTER: Okay. Let me make a comment here,
2 too. But I can't -- okay. I do -- you know, personally I
3 believe -- and this is where we get into gray areas in
4 this conflict of interest. I do believe personally --
5 this is my assessment of this -- that there is a
6 difference when somebody brings a company that is part of
7 one of the members of this board.

8 If one of its members of this board works for a
9 company that directly brings a petition, to me that's a
10 no-brainer. That's a conflict of interest. If, however,
11 a petition comes in from a trade association or industry
12 group of which a member of this board also serves as a
13 part of this, and it's my understanding that this petition
14 came in from the OTA processing.

15 MS. BURTON: There was a group of people that
16 were all MPPPO representatives that got together to submit
17 this petition.

18 MR. CARTER: A task force.

19 MS. BURTON: A task force.

20 MS. KOENIG: You're the materials chair. How
21 was it actually written as a petitioner's because I would
22 think if it was actually OTA committee that would, in my
23 mind, be who would petition or -- I mean, so let's look at
24 the facts. That's the paperwork.

1 MS. BURTON: When we submitted this petition, I
2 tried to figure out what was the most proper way to submit
3 this petition. And at the time, we put the company names
4 of those of us, because if you look under the criteria for
5 submitting a petition on how you prioritize reviewing a
6 material, the more industry input you have the higher
7 weight that petition is going to get.

8 So we made the choice to put our names on
9 there -- Smucker's, Horizon, and George's Organic
10 Valley -- hoping that that would push weight and show that
11 this industry that it's a serious material that we needed
12 to consider.

13 In hindsight, now that we've gone through this
14 process, you know, I have recused myself because of that.

15 But again, I do not agree with this annotation, and as
16 far -- if we go back to Dave's comments about why I should
17 recuse myself, I don't use this.

18 I was a petitioner, but this is not a material
19 that I'm going to have financial gain over.

20 MR. CARTER: Okay. Mark and then Kevin.

21 MR. KING: I was just recognizing.

22 MR. CARTER: Okay. Mark recognizing Kevin.

23 MR. O'RELL: Thank you, Mark. Well, again, I'm
24 in the situation of the same -- the same situation that

1 Kim is in. Our company participated in the petition
2 process only because there was a need in the industry, as
3 it originated out of the MPPL. We do not use this
4 ingredient in our company.

5 None of our co-packers use this ingredient, so
6 I don't feel that under what we're saying now that what's
7 been disclosed, I don't feel I have a conflict of
8 interest.

9 MR. CARTER: Okay. The chair will rule that
10 there is a difference, though, in declaring a conflicting
11 interest and having that impair your right to vote, and
12 that's -- it's very clear that in many organizations, you
13 can declare a conflict of interest. It can be up to the
14 board to determine whether that conflict of interest is
15 sufficient enough to impair your ability to cast a
16 reasonable vote on this.

17 So this may be one of those cases where we will
18 leave it up to the board to -- I would entertain a motion
19 then, just to put it in the form of a formal thing, that
20 those folks that have declared themselves having a
21 conflict of interest should recuse themselves from voting
22 on this particular material. We'll take this procedural,
23 okay?

24 MR. BANDELE: So move.

1 MR. CARTER: Okay. Owusu moves. Is there a
2 second to that?

3 MS. OSTIGUY: Second.

4 MR. CARTER: Okay. Nancy seconds. Okay. Now,
5 this is just a procedural vote. If you feel that the
6 folks that have declared a conflict of interest should
7 recuse themselves of voting, you would vote aye on this
8 motion.

9 If you feel that they ought to be allowed to
10 vote on this material, you would vote no on this motion.

11 George.

12 MR. SIEMON: Yes. Jim said earlier the
13 difficult position that we're getting in now where
14 committees are now recommending materials.

15 MR. CARTER: Right.

16 MR. SIEMON: And I'm putting forth 17 materials
17 as the livestock chair.

18 MR. CARTER: Yes. That's a --

19 MR. SIEMON: Well, I don't see that that's
20 different personally.

21 MR. CARTER: That is a committee of this board
22 rather than an external committee, so that is -- okay.

23 MR. SIEMON: Okay.

24 MR. CARTER: So we will vote, and this is a

1 procedural vote requiring only a simple majority; not a
2 two-thirds, okay. All of those in favor of the motion to
3 require those folks with a conflict of interest to recuse
4 themselves, signify by saying aye.

5 (A chorus of ayes.)

6 MR. CARTER: Okay. Raise your hand. Okay.
7 One, two, three, four.

8 All of those opposed, same sign. Two, three,
9 four, five.

10 MS. BURTON: I'm a little confused.

11 VOICE: I don't think you can vote, Kim.

12 MR. CARTER: Yes. I would say on this one, you
13 would not. You know, just don't vote. This is -- yes.
14 Okay. So raise them high again -- those -- okay. One,
15 two, three, four, five, six, seven.

16 Okay. The motion fails. Those folks that have
17 declared a conflict of interest are not required to recuse
18 themselves.

19 Proceed.

20 MS. BURTON: Okay. Therefore, I make a
21 recommendation --

22 MR. CARTER: An amendment.

23 MS. BURTON: -- an amendment to change the
24 annotation to read: DEAE for use as a boiler water

1 additive for packaging sterilization only, for use as a
2 boiler water additive until October 21, 2005, for use as a
3 boiler water additive in livestock feed until October 21,
4 2005.

5 MS. OSTIGUY: Second.

6 MR. CARTER: Okay. Who seconded? Okay. Nancy
7 seconded. Okay. So the amendment on the table then is
8 that -- excuse me. I was diverted here. So you're just
9 striking --

10 MS. BURTON: Striking, For agricultural
11 products labeled made with organic specific ingredients or
12 food groups.

13 VOICE: Are we striking --

14 VOICE: So it could be used in any product for
15 anything.

16 MR. CARTER: Yes. Could be used -- the upshot
17 of the amendment is that it could be used in products
18 labeled as organic until October 21, 2005. Okay.

19 Mark.

20 MR. KING: I'm a little confused, because I
21 think you said, and just point of clarity if this is what
22 you're trying to do. Did you still say packaging
23 sterilization only in that? So it's not clear to me what
24 we're --

1 MS. BURTON: Okay. I'm sorry.

2 MR. CARTER: Okay. The maker of the amendment
3 would clarify.

4 MS. BURTON: For use as a boiler water additive
5 for packaging sterilization or -- period. For use as a
6 boiler water additive till October 21, 2005, for use as a
7 boiler water additive in livestock feed until October 21,
8 2005.

9 MR. CARTER: Okay. Is that agreeable with the
10 seconder?

11 MR. KING: Again, point of clarity. If --

12 MS. BURTON: Strike only.

13 MR. KING: -- if it's on that, okay. If the
14 way it reads, then for uses of boiler water additive for
15 packaged sterilization would be indefinite.

16 MS. BURTON: Correct. That's how we have the
17 other boiler volatile amines that we've approved. It's
18 the exact language.

19 MR. CARTER: Okay. I'm still looking to the
20 seconder if that's --

21 MS. OSTIGUY: Actually, the wording still is
22 not clear, because we're talking boiler water additive in
23 both of the second sentences. One has the caveat of in
24 livestock. The second one -- the first one does not have

1 a caveat. We took out the in agricultural products, so do
2 we want to put back in, in agricultural products, or we
3 delete the second sentence, which I don't know what you
4 prefer.

5 MS. BURTON: Delete the second sentence. You
6 are correct. Shall I read it again?

7 MR. CARTER: Okay. The amendment is emerging.

8 MS. BURTON: Sorry.

9 MR. CARTER: That's okay.

10 MS. BURTON: The amendment is, For use as a
11 boiler water additive for packaging sterilization. For
12 use as a boiler water additive until October 21, 2005.

13 MR. CARTER: Okay. Is there a second to that?

14 MS. OSTIGUY: Yes.

15 MR. CARTER: Okay. Okay. Seconded by Nancy.
16 Okay. Discussion on the amendment itself. Again,
17 procedurally, there'll be two votes now. We will just
18 have a vote on amending this language as a substitute the
19 original. If this amendment would fail, we would be back
20 to the original language, okay?

21 Willie.

22 MR. LOCKERETZ: I still don't get the
23 relationship between the first and the second sentence.
24 The first sentence doesn't restrict it. The second

1 sentence -- I mean, the first sentence restricts it to
2 sterilization. The second sentence does not, and I don't
3 under the relation between these two.

4 MS. CAUGHLAN: Contact with the food product.
5 The sterilization is noncontact. The other would permit
6 it.

7 MR. CARTER: Okay. Kim.

8 MS. BURTON: Willie, when we looked at the
9 other boiler water additives, we approved two others that
10 were allowed for packaging sterilization only, and we
11 approved those indefinitely. When we approved the
12 ammonium hydroxide at the last meeting, we did set a
13 sunset period because we wanted to stress to the industry
14 that this material would no longer be allowed after that
15 date for contact with food.

16 MR. LOCKERETZ: To follow up, would it be
17 compatible with your intent to say -- to strike the first
18 sentence and to rework the second sentence to be, For use
19 as a boiler water additive for packagings sterilization,
20 and then the rest of the sentence as it reads?

21 MS. BURTON: I would suggest we just leave it
22 as is.

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

24 MR. RIDDLE: Well, first I have a question.

1 Then I'll have some comments. I just want to be clear
2 that Kim, George, and Kevin's companies don't use this
3 material for packaging sterilization. Is that true?

4 MS. BURTON: That's not true. We use it for
5 packaging sterilization. We do not use it for direct food
6 contact.

7 MR. O'RELL: We do not use it for packaging
8 sterilization or direct food contact.

9 MR. CARTER: All right.

10 MR. RIDDLE: Okay. I'd like to make some
11 comments now. I didn't --

12 MR. CARTER: Is it to the amendment?

13 MR. RIDDLE: Yes, exactly. Finally.

14 MR. CARTER: Okay. As long as they're to the
15 amendment.

16 MR. RIDDLE: Yes. It's exactly to the
17 amendment. I oppose the amendment. I sit on the
18 processing committee and supported the -- painfully
19 supported the language that we did approve and felt that
20 that was a stretch, and certainly a compromise language
21 based on all of the information we'd received.

22 I'd like to point out that the TAP reviewers
23 unanimously recommended that the material be prohibited.
24 The TAP reviews were re-reviewed by another party who

1 confirmed the validity of the original TAP reviews. This
2 is a toxic material. That's undeniable.

3 And it is directly injected into food products.

4 But under the FDA, it's not required that it be labeled
5 as such, so consumers are not informed if they may be
6 consuming the material. But it clearly is being directly
7 injected into the products.

8 And it's currently prohibited -- it's not on
9 the list, so processors should already be moving away from
10 it with the October 21 deadline, and the accredited
11 certifiers should be enforcing this already. But there
12 has been a chemical dependency situation develop where a
13 couple of certifiers have been allowing use of the
14 material, and so there's situations where processors are
15 using the material.

16 So there is some grounds for a phase-out,
17 similar to the methionine situation [phonetic] and the
18 ammonium hydroxide. That was a stretch to come to that
19 position, believe me. And on the issue of the organic
20 peas that Kim brought up, the single ingredient type
21 package, there are options.

22 Those peas would have to be produced without
23 use of the material. That can be done either by going
24 through a processing facility that does not use the

1 material or by shutting DEAE off when those peas are
2 processed.

3 So you wouldn't have to have organic -- or peas
4 made with organic peas. As a label claim, that's totally
5 avoidable. I don't see that as a problem. What this
6 does is allow the major company that we heard from that
7 submitted compelling information about their dependency on
8 use of the material was a multi-ingredient manufacturer
9 who does made-with type labeling products.

10 The rest of it was a lot of conjecture, but we
11 received some compelling information. So I urge the board
12 to oppose this amendment and go back to the original
13 language.

14 Thanks.

15 MR. CARTER: Okay. Rose.

16 MS. KOENIG: Are we just speaking to that
17 amendment now?

18 MR. CARTER: Just to the amendment.

19 MS. KOENIG: Okay. I concur with Jim, but -- I
20 concur. I agree with him.

21 MR. CARTER: Okay. Further discussion on the
22 amendment? Okay. The amendment that is on the table
23 right now is simply to add the substitute language, and
24 please read that again because I've --

1 MS. BURTON: For use as a boiler water additive
2 for packaging sterilization. For use as a boiler water
3 additive till October 21, 2005.

4 MR. CARTER: Okay.

5 MR. SIEMON: The second part is for all other
6 uses. That's right. Just -- I don't know if we shouldn't
7 add that to make sure we are clear, but that's fine. As
8 long as that's -- we're all understanding the intent.

9 MR. CARTER: Okay. Rick is saying that it
10 would help if that is clarified, so it's --

11 MS. BURTON: Okay. For use as a boiler water
12 additive for packaging sterilization. For all other uses
13 as a boiler water additive until October 21, 2005.

14 MR. CARTER: Okay. Set. Declared. Okay.
15 Now, just -- if you support the original language, you
16 vote against this amendment to vote for the original
17 language. If you think this is better but you still
18 oppose the whole concept, you can vote for this amendment
19 and if it passes you vote -- okay.

20 Okay. All in favor of the amendment then
21 signify by saying aye. Okay. Hold your hands up.

22 Okay. All of those opposed.

23 Okay. Abstentions. Okay. Two abstentions.

24 So the motion carries.

1 VOICE: It fails.

2 MR. CARTER: Oh, I mean, excuse me. It fails.

3 (Pause.)

4 MR. CARTER: Two, ten and two. Okay. So the
5 recommendation then under the original language is on the
6 table. DEAE for use as a boiler water additive for
7 packaging and sterilization. Only for use as a boiler
8 water additive in agricultural products labeled made with
9 organic until October 21 and for use as a boiler water
10 additive in livestock feed until October 21, 2005. Both
11 cases. Sorry. I'm rushing through here and -- okay.

12 Discussion on the motion now. Owusu.

13 MR. BANDELE: Yes. I had a concern that all
14 the reviewers found this to be incompatible. And I think
15 Mark mentioned that there were no alternatives, but I
16 thought the TAP said that many organic -- I don't think; I
17 see it here -- many organic food processors have already
18 adopted viable and practical ways to address corrosion
19 without the use of the DEAE.

20 And that being said, I would have to vote -- I
21 would have to not vote for this motion.

22 MR. CARTER: Okay. Rose.

23 MR. KING: Could I -- if I could just address
24 that very quickly. In fact, what we found is not many,

1 okay. I think is the term you used processors, but a few.

2 In fact, some have said very few. Okay. A, because of
3 the capital investment. B, because of the time that it
4 would take to actually build a new system, so on and so
5 forth.

6 So while your statement is true, okay, it is
7 not by any means a large percent of the processing
8 community, as we found through the surveys and the
9 information presented to us.

10 Having said that, there are examples of the new
11 technology, and as Jim had stated, there are examples
12 where plants, you know, have turned them off while
13 processing organic products. So anyway, but we still
14 found that in much of the industry, there would be a very
15 large impact for processors.

16 Much as Kim pointed out with crops, livestock,
17 all of the other people within the organic community who
18 are really trying to come up to speed as quickly as
19 possible without absolutely destroying the marketplace, so
20 to speak.

21 So anyway, I hope maybe that helps provide some
22 clarity.

23 Rose.

24 MS. KOENIG: I don't think though that we can

1 look at this product in a vacuum. In fact, last meeting
2 we approved ammonium hydroxide as an alternative, so I
3 think we can add that to the list of alternatives that are
4 out there.

5 I know you're going to say, Well, that doesn't
6 do at all or, you know. But yes. And I know that there
7 are, but if you then give the alternative of that, perhaps
8 to that 25 percent, you may be narrowing down the number
9 even more.

10 But more importantly, again, it's the same
11 issue as calcium oxide. Once you put that on the list,
12 whether a small number of people use it now, you're
13 opening it up to that 70 percent. There's nothing now
14 preventing the other people who have changed or there was
15 an incentive to change to go back for the next three years
16 to that product, because it's now listed.

17 So although I understand the intentions of the
18 committee, and I applaud them to try to come up with some
19 kind of reasonable compromise, again, look at the greater
20 impact of the statements and what you're voting for,
21 because what you do with your good intentions is put
22 something on a list that then can be used in the industry,
23 even for a sunset period, by the other 75 percent who say
24 that they don't use it.

1 MR. CARTER: I just -- chairman's prerogative
2 to make a comment on this one, that I really think that
3 the committee has done a successful job on splitting the
4 baby on this one in that it still makes a differentiation.

5 Those folks that are going with reverse osmosis and the
6 like at this point can use -- can label their products as
7 organic.

8 Those folks that are still using this -- you
9 know, it's this cumbersome thing of having peas made with
10 organic peas type of thing. So it's not quite as -- it's
11 sending a message that this needs to be phased out.

12 You know, from the standpoint of small growers
13 and coops that are trying to get into processing products,
14 most times that's going to be done under a co-packing
15 arrangement, and it's difficult enough to find companies
16 willing to process your products without requiring them to
17 make this big change in their boiler water system.

18 And so I think as much as we can to encourage
19 the industry to start making some changes, but let's not
20 just close the spigot off now. I think that this moves in
21 that direction.

22 Okay. With that, I will call on Mark and then
23 Kim.

24 MR. KING: Just a quick comment and then we'll

1 let Kim, and if I could just add to Dave's comment. We're
2 not talking about just in this case impacting processors.

3 We're talking about processors who buy from growers and
4 impacting their ability to operate perhaps on a daily
5 basis, which can then affect other areas of the industry
6 if they're purchasing from growers.

7 So I just wanted to make -- just make that
8 clear.

9 Kim.

10 MS. BURTON: Just some clarification. Out of
11 the survey, there was really only one or two people that
12 are using the reverse osmosis, and I believe that was only
13 one out of the 56 plants that were surveyed.

14 The ammonium hydroxide -- Rosie, the nature of
15 that chemical is that it's very short-lived. In other
16 words, it won't travel very far through the processing
17 lines, and sometimes you're looking at, you know,
18 thousands and thousands of feet of stainless -- or of
19 tubing in a production facility where you'd have to
20 actually inject the ammonium hydroxide in very, very
21 different levels and different products.

22 So it really isn't applicable to some -- all
23 processors. Although it is an alternative, I would say
24 that it's not even being used at all in any processing

1 facilities, with the exception of dairy, because that's
2 the only approved material allowed in dairy.

3 And we as processors are required to have
4 handling plans and to show why or why not -- why we are or
5 why we are not using a material on the National List. And
6 I would think that people aren't just going to all of a
7 sudden start using it because it's allowed.

8 Those of us who have not used it for that
9 direct application I doubt will start using it again. I
10 mean, there is that possibility. There's always a
11 possibility of cheating the system or changing.

12 MR. CARTER: Okay. Further discussion? We'd
13 like to start moving towards a vote here soon.

14 Rose.

15 MS. KOENIG: I just persist, in terms of
16 further discussion, simply because we're dealing with a
17 product that is -- I mean, I'm on record from the last
18 meeting on these products, too, these volatile amines. I,
19 you know, philosophically have a great deal of problems
20 with these types of substances because I think they are
21 totally not in the spirit of the organic movement.

22 And I understand and I am totally sympathetic,
23 again, to individual processors and problems. I'm
24 sympathetic to growers to have the same problems. They

1 may not be large, but it does affect their living. But it
2 really is in the spirit of the rule and the spirit of the
3 movement for people to come to the plate and do what they
4 have to do in the industry to make it.

5 These products were not allowed by a lot of
6 certifiers before, so it's not like we're drastically
7 changing things for the majority of individuals. I think
8 we need to look at the facts. I mean, we can ask in terms
9 of the TAP again how many of these were approved prior to
10 the rule.

11 But I have a problem. I'm very proud of Dennis
12 who used the shellac wax that did the abstaining for his
13 product. He has -- you know, he's a farmer, and I think
14 that's the way that board members need to conduct
15 themselves.

16 And I just feel that if each individual board
17 members really looks at that product, it is not consistent
18 with organic practices.

19 MR. CARTER: Okay. Let's continue -- okay.
20 George has got a question.

21 MR. SIEMON: Just to ask Jim.

22 Jim, earlier you said about that one
23 manufacturer, the made with. These products will not be
24 allowed to be called organic if they're used on direct

1 contact, and so they still wouldn't be able to call made
2 with organic, because they're not organic because they use
3 this material to process the organic component. Is that
4 correct?

5 You had said earlier they would be able to
6 still use that. I don't think that's correct.

7 MR. RIDDLE: Well, we have a number of
8 materials already on the National List that have that as
9 an annotation -- that only for use in made with organics.

10 MR. SIEMON: So --

11 MR. RIDDLE: So this is not precedent-setting.
12 That already exists as an annotation.

13 MR. SIEMON: Well, I don't see that added here
14 is what I'm getting at. Right?

15 MR. RIDDLE: Huh? That is what the annotation
16 is.

17 MR. CARTER: Willie.

18 MR. LOCKERETZ: Question for Richard. This
19 time limitation issue came up with synthetic methionine,
20 and at the time you said there was some uncertainty or you
21 had some doubts as to whether such a time limitation would
22 be legally binding.

23 Same issue here. What has happened on that
24 question?

1 MR. MATHEWS: The methionine will have the
2 expiration date that you had set in the interim final
3 rule. So the answer is you can set an expiration date.

4 MR. LOCKERETZ: Thank you.

5 MR. CARTER: Okay.

6 MS. CAUGHLAN: Excuse me. Richard, is that in
7 particular because we're dealing with materials, and
8 materials fall more to our Don't touch it when we say it?

9 MR. MATHEWS: I don't know that we looked at it
10 quite that way. We only asked the question of the
11 attorneys, Can the board have a sunset date on the
12 National List for any or all materials, and the answer was
13 yes.

14 MS. CAUGHLAN: Well, that doesn't answer it
15 then. We are speaking about it specifically when it comes
16 to materials that we allow or disallow. Thank you.

17 MR. MATHEWS: That's all we ask for.

18 MR. RIDDLE: I hate to prolong it. I just want
19 to also be clear that the ammonium hydroxide
20 recommendation with that same sunset will be in the
21 interim final rule with that language as well?

22 MR. MATHEWS: All recommendations with a sunset
23 date will be in the final rule.

24 MR. RIDDLE: And I just want to come back to

1 one final point that came to mind when Rose was making her
2 comments, and that is looking at the situation with the
3 calcium oxide and calcium hydroxide that had been allowed
4 by certifiers, but they and the farmers saw that it was
5 not on the list and made the change to remove it.

6 The same thing has not been done here by two
7 certifiers. All other certifiers prohibit this material
8 right now.

9 MR. CARTER: Okay. Are you ready to vote?
10 Okay. Let me get the language here. We are back then --
11 an aye vote is a vote for the language, For use as a
12 boiler additive for packaging sterilization only. For use
13 as a boiler water additive in agricultural products
14 labeled as made with organic until October 21, 2005. For
15 use as boiler water additive in livestock feed until
16 October 21, 2005.

17 Okay. All those in favor, signify by saying
18 aye.

19 (A chorus of ayes.)

20 MR. CARTER: Opposed, same sign. Let's do it
21 by a show of hands. Okay. First of all, all of those in
22 favor, raise your hand. One, two, three, four, five, six,
23 seven, eight. Eight ayes.

24 Opposed? One, two, three, four, five, six --

1 six opposed.

2 Abstentions? Okay. The motion fails.

3 Okay. Rose.

4 MS. KOENIG: I make a motion to label it
5 synthetic and prohibit its use in organic production.

6 MR. CARTER: You need to turn on your mic.

7 MS. KOENIG: Oh. Sorry. I make a motion to,
8 as a synthetic, prohibit it for use in organic use
9 production.

10 MR. CARTER: Okay. The motion has been made
11 to -- as a synthetic, to prohibit its use in organic
12 production. Is there a second? It's been --

13 VOICE: Wait a minute. It's already
14 prohibited. It's not on the list.

15 MR. CARTER: It's not on the list. Yes. Okay.

16 MS. KOENIG: Okay. That's fine. Well, it
17 didn't pass, so there's no motion on the table at this
18 point. So we're back to Mark now to continue.

19 MS. OSTIGUY: I'd like to make a motion.

20 MR. CARTER: Okay.

21 MS. OSTIGUY: I'd like to make a motion to --
22 basically, for the first sentence, produce as boiler water
23 additive for packaging sterilization only.

24 MR. CARTER: Okay. A motion has been made to

1 approve the language, DEAE for use as boiler water
2 additive for packaging sterilization only, period.

3 Second? Is there a second? Is there a second?

4 (No audible response.)

5 MR. CARTER: Motion dies for lack of second.

6 MS. BURTON: Can I just comment on that?

7 MR. CARTER: Yes.

8 MS. BURTON: We deferred this material because
9 it was one of the safest among the other two that we
10 allowed for packaging sterilization only. This material
11 is quite often used in conjunction with the other two that
12 we did allow on the National List.

13 They come together in a brand name material.
14 They come together oftentimes from the supplier as a
15 package product. In other words, you're adding a
16 combination of the three materials to overall do the best
17 job that is possible.

18 So by voting this material down, you are really
19 hindering the industry on packaging sterilization, and you
20 also have already approved two materials that really
21 were -- they function in a whole different capacity than
22 this material.

23 So I just want you to be aware of the motion
24 that was just passed. You are hindering this industry

1 tremendously by not allowing it for packaging
2 sterilization at the minimum.

3 MR. CARTER: And just a point of clarification,
4 Kim, that's -- the motion that was just made died for lack
5 of second. Okay. As a prerogative, I will allow the
6 maker of the motion to make that again if there was
7 confusion. Okay. So Nancy.

8 MS. OSTIGUY: I'd like to move that DEAE is a
9 synthetic allowed for use as a boiler water additive for
10 packaging sterilization only.

11 MR. O'RELL: Second.

12 MR. CARTER: Okay. Now it has been seconded.
13 Okay. Now it's on the table for discussion. Okay. Yes,
14 by Kevin. I'm sorry. Okay. Discussion.

15 (No audible response.)

16 MR. CARTER: Okay. Are you ready to vote then
17 just on this -- okay, Rose.

18 MS. KOENIG: No. I'm not ready to vote. Back
19 in the meeting in Washington when we voted on the other
20 two materials, it really was the prerogative of the
21 committee to take this material back rather than going
22 forward with the vote at that time.

23 That was your recommendation. However, having
24 said that, there are two alternatives on there, and I

1 understand that it may be packaged in a way that has three
2 of them. But I felt that the board was more than lenient
3 in allowance of those two materials.

4 What we're doing here is we're not even putting
5 a sunset clause on that use as it exists right now in the
6 National Rule. So you are in fact allowing yet another
7 boiler water volatile amine on the list with no sunset
8 clause for packaging and sterilization, and I feel that
9 we've got two there; that that is the alternative.

10 MR. CARTER: Okay. You can certainly make an
11 amendment, too, for a sunset clause. That's appropriate.

12 Okay. Jim.

13 MR. RIDDLE: Yes. I view this packaging
14 sterilization only as truly incidental contact. This is
15 not being directly injected into the product, and I can
16 support this limitation. So I do just want to express,
17 though, in all due respect and admiration, Kim, I am
18 uncomfortable with the fact that not only were you the
19 petitioner but also your company is using it for this
20 purpose, and you're choosing not to recuse yourself.

21 But that is your choice here, but I do -- just
22 felt a need to say that to clear my own conscience. But I
23 do support and will vote for this allowance of the
24 material.

1 MR. CARTER: Okay. Yes.

2 MS. BURTON: Steam -- this comes down to steam
3 is used in every processing plant, and if I can't vote --
4 I understand I was the petitioner in this, and I had
5 recused myself all along on these materials. When it came
6 to making an amendment to the annotation, I chose not to
7 do that, so --

8 MR. CARTER: Okay. There will be no more
9 discussion on that issue because the board voted formally
10 to allow these folks to participate. This was a board
11 action, so that is a settled issue.

12 Let's vote now on the motion. Proceed to vote.
13 The motion is, DEAE for use as boiler water additive
14 packaging sterilization only, period. All of those in
15 favor, signify by saying aye.

16 (A chorus of ayes.)

17 MR. CARTER: Opposed, same sign.

18 Okay. Let's do the count. Okay. Lower your
19 hands. All of those in favor, raise your hand. One, two,
20 three, four, five, six, seven, eight, nine.

21 Okay. Opposed? One, two, three, four.

22 Okay. Abstain? Okay. What was the -- yes.

23 We're short -- ten, four. Okay. So it carries.

24 Okay. Mark.

1 MR. SIEMON: I'm not done yet.

2 MR. KING: We're done with that material.

3 MR. SIEMON: Yes. I want to make the motion to
4 allow it in feed -- livestock feed but to sunset.

5 MR. CARTER: Okay. A motion has been made -- I
6 put my paper away here -- okay -- to allow DEAE for use as
7 a boiler water additive in livestock feed until October
8 21, 2005. Is there a second?

9 MR. LOCKERETZ: I second.

10 MR. CARTER: It's been seconded. Okay.
11 Willie, out of curiosity, seconds the amendment -- or the
12 motion, excuse me. Okay.

13 Okay. Explain your --

14 MR. SIEMON: I think Kim's got a more
15 information context we had, but we're now going to be
16 requiring that young baby calves are treated organically
17 from day of birth, and pelletization of feed is a big part
18 of that and it's a real immature part of the industry, and
19 I have no idea honestly of the availability to have any of
20 it made without this material.

21 I have to admit I'm a little on the gray area,
22 but that's what sunset clauses are for. This isn't a
23 mature part that's been going on ten years. This is
24 something that's just beginning, and I don't see any

1 reason for livestock feed to restrict it at this time.

2 MR. CARTER: Okay. Further discussion?

3 MR. LOCKERETZ: Would you explain how it --
4 what kinds of feeds and how it [inaudible]?

5 MR. SIEMON: Just in pelletization. When they
6 pelletize feed is when it's used. And it's used more than
7 calves, but I know calves specifically is an issue that's
8 coming up right now.

9 Kim, I would ask what information in --

10 MR. CARTER: Okay. Mark and then Kim.

11 MR. KING: Yes. I'd like to comment on it from
12 two points. One, having grown up on a farm and raising
13 ruminant animals as well as swine and purchasing quite a
14 lot of pelletized feed, so there will be dependence upon
15 that, and I think George is correct in stating that there
16 are, and we've heard from many people in the industry,
17 that there can be some supply issues in terms of livestock
18 feed.

19 So having said that, Kim.

20 MS. BURTON: George, there was one petition
21 that came in after the original petition for this material
22 and it was from a livestock feed company for the use, and
23 that's why it actually got brought up. So there was
24 another additional petition.

1 MR. SIEMON: I've never seen that petition.

2 MS. BURTON: It should be -- it was part of the
3 processing committee's review.

4 MR. CARTER: Okay. Further discussion on the
5 motion? Jim.

6 MR. RIDDLE: Yes. The processing committee
7 sought input from the livestock sector on the need for the
8 material and received none. We received extensive
9 information from the food processing sector, and we've,
10 you know, had to weigh all that but we sought more
11 information from the livestock feed sector and really
12 didn't receive, so we don't have a justification in my
13 mind for the compelling need for continued use of the
14 material.

15 So I have a real problem supporting it. I'm
16 sorry.

17 MR. CARTER: Okay. Further discussion? Okay.
18 Rose.

19 MS. KOENIG: I mean, is there a possibility --
20 again, the TAP review wasn't -- didn't cover livestock
21 use, so we don't know what the implication is, you know,
22 in animals or what-have-you. But basically, it wasn't
23 written to that use, and I don't feel comfortable making a
24 decision where I have no information provided to me. Just

1 sort of we think that industry may need it.

2 MR. CARTER: Further discussion? Willie.

3 MR. LOCKERETZ: Question for those who know.

4 Is the --

5 VOICE: Turn your mic on, Willie.

6 MR. LOCKERETZ: Sorry. The kinds of processes
7 for which steam would be used in livestock feed
8 manufacture -- how do they compare to the kinds of
9 processes used in manufacture of foods? Are we talking
10 about basically similar sets of equipment, similar
11 processes; just the one is ending up with the animal, the
12 other ending up with humans, or are there bigger
13 differences between the two?

14 MR. SIEMON: Far as I know, it's much the same
15 because it's all about the steam and the protection of the
16 line, so I don't know there'd be any difference, and this
17 is all of course, human food approved. And now we're down
18 to livestock approved.

19 MR. CARTER: Further discussion?

20 MR. LACY: I was going to say I'm not an expert
21 in the pelleting process. I do know that it does provide
22 some sterilization of the feed, antibacterial killing of
23 microbes that could be of importance in a food safety kind
24 of issue.

1 I guess that's where George is coming from. Is
2 that right, George, with the dairy calves?

3 MR. SIEMON: Well, more so for whatever reason,
4 the pelletized food is more used in calves, and I don't
5 quite know the major reason for that. The other thing
6 that's part of this is some hauling -- there's a lot of
7 transportation of organic feed, and pelletizing can save a
8 lot on the space requirement for it, too. That's another
9 issue, but that's not the main one.

10 MR. CARTER: Okay. Further discussion?

11 MR. HARPER: I just wanted a clarification at
12 the -- the steam is used to help -- to take the different
13 feed ingredients to -- that are put under pressure and
14 heat from the steam to condition and to form the pellets,
15 and then the -- or the DEAE or other volatile means comes
16 along with the steam.

17 So even -- I mean, the product is already
18 sterilized or cooked, whether it has the volatile amine in
19 it or not. But that's what the steam is used for. I
20 mean, that's the primary use of that product.

21 MR. CARTER: Okay. Rose.

22 MS. KOENIG: So Steve, can you come back there?

23 So are you -- again, I still don't feel like we have
24 enough information on this to make a decision. But are

1 you saying that so the DEAE is actually going into that
2 pellet?

3 I mean, there's going to be -- do you feel that
4 there's going to be a larger concentration, say, in that
5 type of application versus a food-type system where you're
6 just putting it through the lines and there may be some
7 incidental dropping?

8 MR. HARPER: The estimation of the amount of
9 the volatile amine that ends up in the final, like, a
10 final pellet, I have not seen any data from the livestock
11 industry in -- I know in the cereal industry, the
12 estimation is that it's in there at about .14 to .5 ppm as
13 a finished product -- in the finished product. That's the
14 approximate level that it's there at.

15 MR. CARTER: Steve, while you're there, just a
16 question of are you aware of alternatives to this --

17 MR. HARPER: I mean --

18 MR. CARTER: I mean, what are the alternatives?

19 MR. HARPER: -- it is exactly the same -- it's
20 exactly the same equipment that's used in food processing
21 systems. You don't have all the blanch, you know, the
22 heating of water with blanch -- the blanch water with
23 steam and those kind of applications that you do have in
24 the other food industry.

1 This is a strictly -- this is a stripped
2 application of steam, direct injection of the steam into
3 the pelletization. It serves exactly the same purpose of
4 protecting the steam lines, and you have the same type of
5 strategies to prevent deterioration of piping that you'd
6 have in the human food conditions.

7 MR. CARTER: Okay. Rose and then --

8 MS. KOENIG: So, but when you're pelletizing
9 something, you're trying to create a structure. Correct?

10 MR. HARPER: That's correct.

11 MS. KOENIG: I mean, you're taking a product
12 and forming a pellet. So is that steam more integral to
13 actually creating that pellet? I mean, is the steam
14 helping form that pellet, because if it is, that's a very
15 different application again than some kind of, you know,
16 incidental background DEAE that falls -- may fall into the
17 food.

18 MR. HARPER: Steam is -- yes, steam is integral
19 to that because you can't inject water -- steam brings a
20 lot of energy with it, at the same time not adding a lot
21 of moisture to the pellet because they don't want to be
22 hauling around moisture and having to -- you know, having
23 to add the moisture and then dry the pellets back out.

24 So it cooks it with the maximum amount of

1 energy versus using hot water, where you have much less
2 energy. Then you've got to dry all that material out.

3 MS. KOENIG: I just have one more point then
4 for the board. I just feel like this is a very different
5 process than what we've had the TAP review on, and I am
6 definitely not comfortable in making a --

7 MR. HARPER: It's identical. It's --

8 MS. KOENIG: I know the process is identical in
9 terms of what it's used for in those lines, but you are
10 saying that that steam is helping in changing the physical
11 properties or creating the physical properties of that
12 pellet, which to me has got to have some different
13 implications, and I don't think we have that information
14 in terms of voting on it.

15 MR. CARTER: Okay. Mark.

16 MR. KING: Yes, and Steve, if you want to come
17 back up that's fine, but I just want to make a point.
18 What I heard Steve say is the systems are, in terms of the
19 integrity, okay, of the boiler system, are pretty much the
20 same in livestock and food.

21 And so how -- I guess my question to you,
22 Steve, is how or are there any differences between direct
23 food contact, okay, of steam and the pelletization of
24 livestock feed? Is that -- I may be asking the same

1 question in a different way, but just that simple
2 comparison might help provide clarity.

3 MR. HARPER: This is one -- the pelletization
4 of feed is similar to one application in human food when
5 you're making pellets that are then made into, say, flake
6 cereal. You form pellets first and then the flakes are
7 formed, and then you've got drying that's going on.

8 There are many other -- there are other kinds
9 of steam applications in human food production. Does that
10 clarify? So -- but it's exactly the same. It's exactly
11 the same process that's used in, say, forming any kind of
12 cereal type products in human food.

13 MR. LOCKERETZ: Are the same facilities likely
14 to be used for human food or not?

15 MR. HARPER: No. Absolutely not. Absolutely
16 not. Completely separate.

17 MR. LOCKERETZ: So the impact of accepting or
18 not accepting this position, there would be no crossover
19 impact?

20 MR. HARPER: No.

21 MR. BANDELE: Steve, so in that situation where
22 you have pellets and then the cereal, the flakes, would
23 there be more or less of the DEAE in the pellet or the
24 flake?

1 MR. LOCKERETZ: You're speaking of the human
2 scene?

3 MR. BANDELE: Yes.

4 MR. HARPER: Most of the DEAE volatizes off
5 before it even goes into the pellet or as it's cooked, so
6 it's not even actually in the final product. Like I said,
7 you know, .2, .3 ppm level.

8 MR. CARTER: Okay. Further discussion?
9 George.

10 MR. SIEMON: Just one comment -- that the
11 livestock industry is the last place you'll see the use of
12 these physical alternative methods, because they're such
13 crude, old -- compared to the modern food ones that are
14 investing in the stainless steel and all, this is a
15 different level of production capacity or facilities.

16 MR. CARTER: Okay. Further discussion? Seeing
17 none, we're going to proceed to vote.

18 Okay. The motion that's on the table is simply
19 to approve the word, DEAE for use as boiler water additive
20 in livestock feed until October 21, 2005.

21 All of those in favor, signify by raising their
22 hand.

23 Okay. Opposed?

24 Okay. Abstentions? Okay. Three. Okay.

1 Arthur, I'll leave it to you to announce the --

2 MR. NEAL: Got eight in favor, three opposed,
3 three abstained.

4 MR. CARTER: Okay. So the motion fails.

5 And Ann, I need to have you raise your hand
6 real high. You're down so low it's hard to -- no, it's
7 two-thirds. Yes. Okay. All right.

8 MR. KING: Are we officially done with DEAE?
9 Okay. Off we go. Yes.

10 The next and -- yes?

11 MR. LOCKERETZ: Are we sure that an abstention
12 counts as a no? I don't want my abstention to change the
13 result. I want a true --

14 MR. CARTER: I'm deferring to the
15 parliamentarian, Carolyn Brickery.

16 MS. BRICKERY: It's like you're present and
17 voting. An abstention means you're present and voting.

18 MR. LOCKERETZ: So therefore [inaudible]

19 MR. MATHEWS: I think basically an abstention
20 says that you're willing to go with whatever the vote
21 comes out to be. I will go get some Robert's Rules of
22 Order.

23 MR. CARTER: Okay. Rose.

24 MS. KOENIG: Well, I was going to make --

1 entertain another motion. My motion would be to review --
2 send the TAP back to OMRI solely for looking at livestock
3 systems. I'm willing to consider that motion, but not
4 without some information.

5 MR. CARTER: Okay. So I think where you
6 stopped making your motion was at the point where the
7 motion is to send this back to OMRI for consideration
8 as -- strictly as livestock. Okay. Is there a second to
9 that motion?

10 MR. KING: Second.

11 MR. CARTER: Okay. Discussion on the motion?
12 Seeing none, all --

13 VOICE: Wait, wait.

14 MR. CARTER: Okay. Kim.

15 MS. BURTON: As Jim alluded to, we heard from
16 one person in the livestock industry and they knew that
17 this material was up for a vote and they chose not to
18 comment on it. So to waste our dollars and reserves on
19 doing a TAP review on a material that really, we've had
20 one person in the industry come forth with, I think is
21 kind of a --

22 MS. KOENIG: I would say --

23 MS. BURTON: I would suggest that perhaps OMRI,
24 in the interest of the industry, might be willing to just

1 add a small section, free of charge, to our group.

2 MR. CARTER: Okay. Brian, did you have a point
3 of order just from OMRI to -- I'll call on the OMRI
4 representative to make that offer.

5 MR. BAKER: I'm sorry. I greatly appreciate
6 everybody's patience with this material and appreciate,
7 above all, Rose's concerns. But this has been -- this
8 discussion has been going on since 1995. We did receive
9 the McGreary [phonetic] Grain petition.

10 We did incorporate it into the materials that
11 were passed on; that I did discuss it with the individual
12 reviewers. The reviewers saw nothing in the review that
13 would change the recommendation that it is synthetic and
14 that it be prohibited for use, all use, in organic
15 processing.

16 I don't think that you would get any different
17 result from another review.

18 MR. CARTER: Okay. So the motion --

19 MS. KOENIG: I will rescind my motion.

20 MR. CARTER: Okay. The motion has been
21 withdrawn. Okay.

22 Mark.

23 MR. KING: Does this mean we're officially
24 moving on? That is, do we need to vote on that? Okay.

1 MR. CARTER: It means that my thoughts of
2 crowing about how far ahead of schedule we were just
3 disappeared.

4 MR. KING: Yes, well, no surprise there.

5 Okay. Next and last for the processing
6 committee materials today is glycerol monooleate. And
7 glycerol monooleate has been petitioned for use as an
8 antifoam agent used in processing. It's our understanding
9 in reviewing the information that it's a commonly used
10 antifoam agent in processing.

11 Anyway, therefore, the petition has been
12 received for inclusion on the National List. However, in
13 this case, it's been brought to the attention of the
14 processing committee that studies are currently under way
15 testing the effectiveness of organic antifoams. In other
16 words, alternatives, if you will.

17 Further, the committee has been informed that
18 the results of these studies are expected prior to the
19 September 2002 National Organic Standards Board meeting.
20 Therefore, I move that the board vote on the following
21 recommendation, which is that glycerol monooleate be
22 deferred for consideration at the September 2002 National
23 Organic Standards Board meeting.

24 MS. OSTIGUY: Second.

1 MR. CARTER: Okay. It's been moved, Nancy
2 seconded. Discussion on this. As you can see on this one
3 that this was approved in committee three to nothing, with
4 one recused, one absent. Okay. Discussion on the motion
5 to defer it?

6 (No audible response.)

7 MR. CARTER: Seeing none, assuming that we're
8 ready to vote -- point of information?

9 MR. BAKER: Point of information. Would there
10 be any instructions to the TAP reviewers that would go
11 with this motion? Is there any additional work or any
12 further review needed?

13 MR. KING: I do have the letter. We can --
14 have to find it.

15 MR. CARTER: Okay. While he is looking for the
16 letter, let me just ask the question if there's anyone who
17 has a conflict of interest on this issue?

18 MR. O'RELL: I do. I would declare a conflict.

19 MS. BURTON: I do, too.

20 MR. CARTER: Okay. Kevin and Kim both declare
21 a conflict.

22 MR. KING: Here's a copy of the letter which
23 I'll just read. Hopefully this will help, Brian.

24 Dear NOP/NOSB, Please accept this letter of

1 formal request from the petitioners duly named as, as you
2 know in this case, Markers, Horizon, and Cyanotech to
3 defer the vote on glycerol monooleate. As you know, the
4 vote on this material was deferred from the previous NOSB
5 meeting, could be conducted on alternative materials that
6 were recommended in the TAP review.

7 Such alternatives included organic vegetable
8 oil, lecithin, beeswax, and other materials on the
9 National List. So there are three there, if that helps.
10 Vegetable oil, lecithin, and beeswax -- right. So the
11 petitioners have identified two and possibly three
12 separate vendors who have developed organic antifoam
13 agents using some of those materials identified in the TAP
14 review.

15 In this case, both Smucker's and Cyanotech have
16 had very successful test runs using one of the organic
17 antifoam alternatives. Horizon is scheduled for a test
18 run the end of May. Until the alternatives prove viable
19 for all petitioners, we must request it for the following
20 reasons: complete testing of the alternative material at
21 the Horizon processing facility, work with vendors to
22 apply for organic certification of antifoam agents, and
23 then third, identify/petition vegetable fatty acids for
24 inclusion into 205.606.

1 So that's -- does that help or provide some
2 clarity? Okay.

3 MR. CARTER: Okay.

4 VOICE: No. We won't -- I don't think we'll be
5 needing any further assistance.

6 MR. CARTER: Okay. So the motion to defer is
7 on the table for action. Okay. All those -- oh, let's
8 see. I already asked for a conflict of interest. All of
9 those in favor of the motion to defer this material for
10 consideration at the September 2002 NOSB meeting, signify
11 by saying aye.

12 (A chorus of ayes.)

13 MR. CARTER: Opposed, same sign.

14 (No audible response.)

15 MR. CARTER: The motion carries 12 to zero.

16 Twelve to zero, two recusals. Okay.

17 MR. KING: That's our last material, Sir Chair.

18 MR. CARTER: Okay. Thank you.

19 With that, we will take a break for lunch. I
20 understand the livestock committee is meeting during
21 lunch. And we will resume again at one o'clock.

22 (Whereupon, the hearing was adjourned, to
23 reconvene this same day, Tuesday, May 7, 2002, at 1:00
24 p.m.)

A F T E R N O O N S E S S I O N

2:00 p.m.

1
2
3 MR. CARTER: I apologize that we're running
4 behind on our lunch schedule, although I have to say that
5 Eric Sideman told us that there was a good Mexican
6 restaurant that was only a ten-minute walk away, and I
7 forgot that ten minutes is a lot longer in Maine, so --

8 VOICE: Or with Eric's legs.

9 MR. CARTER: Or with Eric's legs. So we're
10 still ahead of schedule here. Okay. So we've got items
11 being distributed here, but I would like to call on
12 George, then, for the livestock committee.

13 MR. SIEMON: Okay. Just we're handing out what
14 we're going to vote on today on the issues we have. We're
15 definitely going to vote on the feed ingredient issue,
16 which is the first two-page document. This is in your Tab
17 5 that has more detail about all these issues.

18 So I'm going to move to the first one, which is
19 about the vitamins and minerals. The purpose of this
20 clause is to clarify what is meant in the rule when it
21 says FDA-approved vitamins and minerals. As it works out,
22 that is not an adequate terminology because of the
23 dependency on AAFCO for the acceptance of vitamins and
24 minerals.

1 So -- and AAFCO is a semi-private organization
2 that works with states to approve vitamins and minerals,
3 so FDA-approved is not enough. We have to go further. So
4 the whole purpose is to broaden that FDA-approved to
5 include AAFCO materials.

6 So does everybody understand the basic problem
7 here? Okay. And that's under -- if you want to look in
8 the law, that's under 603(d)(1) and (2) is where you'll
9 find the basic problem. So we've handed out here the
10 acceptance of those AAFCO materials with the following
11 exceptions.

12 The only exceptions that we've included here at
13 this time are those that are already prohibited in the
14 rule, and those are the mammalian and poultry slaughter
15 byproducts. And we did add hydrolyzed fat, the ones with
16 those numbers there, and -- because one of our commentors
17 pointed out that we'd missed that.

18 So that's the only addition there in that
19 section from the original -- what we sent out for public
20 comment. In addition to that, we did receive public
21 comment about concerns about other materials, and we're
22 recognizing the need to review those filing materials and
23 that we recommend a review by the TAP process to determine
24 if these materials should be prohibited.

1 Now, to clarify -- the last part's the
2 confusing part, so maybe I should ask before we get to the
3 last part if there's any --

4 MR. CARTER: Well, why don't you read this.
5 Then go ahead and make a motion.

6 MR. SIEMON: Read the whole out loud?

7 MR. CARTER: Yes. Read the language of it.

8 MR. SIEMON: Okay. The NOSB recommends that
9 the allowance for synthetic vitamins and minerals
10 contained in Section 603(d)(1) and (2) be broadened to
11 include materials either listed in CFR or in Section 57 or
12 90 on the AAFCO official publication with the following
13 exceptions.

14 Mammalian and poultry slaughter byproducts --
15 bone ash, bone charcoal, bone phosphate, bone charcoal-
16 spent, bone meal steamed, and bone meal-cooked, and
17 hydrolyzed fats, Section 33.3, 33.4, 33.5, and 33.15.

18 NOSB recognizes the need to review the
19 following materials and recommends a review by a TAP
20 process to determine if these materials should be
21 prohibited. And I couldn't pronounce all these words, so
22 if I had to read them I would, but basically, it's the
23 list that OMRI gave us, and that's a consolidation of the
24 list of AAFCO that seemed that we should review.

1 If you want me to, I can try to pronounce them.

2 MR. CARTER: Okay. I'll spare you the agony
3 here. That's a motion?

4 MR. SIEMON: Yes.

5 MS. OSTIGUY: Second.

6 MR. CARTER: It's been seconded. Okay. So
7 this is on the table for discussion.

8 MR. SIEMON: Okay. I just want to clarify that
9 the second list of materials will be allowed until they
10 are reviewed. We just didn't feel we had the technical
11 knowledge to just reject them right out, but we are
12 defining that they are the appointed ones in our public
13 comment our research needed to be reviewed.

14 We just didn't feel we had the technical
15 knowledge to back that up right now.

16 MR. CARTER: Okay. Kim.

17 MS. BURTON: Just a comment, George. We're out
18 of TAP money, so I don't know when this will happen.
19 We'll have to address that with NOP. At least at this
20 point, it doesn't look like we'll get these for September.

21 MR. SIEMON: Thus they'll be allowed.

22 MS. BURTON: Thus they'll be allowed.

23 MR. SIEMON: And that we understood that risk,
24 but we still want to identify them as a point for future

1 reference.

2 MR. CARTER: Okay. Other discussion? More
3 discussion?

4 Jim.

5 MR. RIDDLE: Wasn't urea on that list, too?
6 That was mentioned in the report yesterday, but these
7 are under --

8 MR. SIEMON: These are nitrogen-based
9 organisms -- I mean, materials, and urea is in the actual
10 OFPA.

11 MR. RIDDLE: Yes, as prohibited. Yes. Would
12 there be any -- I guess just first time seeing this, my
13 initial reaction would be more comfortable if they were
14 being prohibited where -- you know, on the list up above
15 until they've been petitioned and reviewed.

16 Do you know the status? I mean, are these
17 being used or are they, you know, commonly used in organic
18 feeds now or feed supplements now or are we just opening
19 up a bunch of things that really may not be appropriate
20 that, just because of a lack of a review having been done.

21 Wouldn't it be better to keep them in kind of a
22 holding pattern as being prohibited until they've been
23 reviewed? Just my reaction.

24 MR. SIEMON: Well, we were there before, too,

1 make them prohibited. But then we just didn't know how
2 long that would be and felt like we were doing it based on
3 just one input from one group rather than -- and that's a
4 little unfair to anybody else that might have put in a
5 whole list of things, and where would it stop and start.

6 So we just did the things that we knew were
7 prohibited by the law. Yes, it's a vulnerability.

8 MR. CARTER: Okay. Nancy, then Rose.

9 MS. OSTIGUY: Some of the things on the list,
10 and I don't recall off the top of my head which they were,
11 Emily was mentioning at least one of them is currently
12 used in feed. I don't know if Emily is around. She
13 could --

14 MR. SIEMON: Emily, just come up here and help
15 us out.

16 MS. BROWN: There's quite a few different
17 chelated by using amino acids, and they're called chelates
18 or proteinate, and they could be various different forms.

19 There's other forms available of all these minerals, but
20 if the question is are they in feed now? Yes, because
21 certifiers have not distinguished the different forms of
22 the minerals, like copper manganese, zinc, particularly.

23 So they're readily used in those forms. There
24 are alternatives, though.

1 MR. RIDDLE: Which ones? Not all of these
2 materials?

3 MS. BROWN: The metal amino acid complex, meta
4 (specific amino acid) complex, metal amino acid chelate,
5 metal proteinate -- those ones, I would say, are in.

6 MR. SIEMON: We need to clarify that each of
7 those might have ten or 15 materials underneath them.

8 MS. BROWN: Right. Right. They could be
9 copper, they could be zinc, they could be manganese. You
10 know, instead of metal substitute, a mineral. So those
11 are groups.

12 Your question about urea -- they're in a
13 different section of AAFCO. It's non -- what are they
14 called -- it's called nonprotein nitrogen, so that
15 wouldn't be included.

16 MR. CARTER: Okay. Rose.

17 MS. KOENIG: I guess for Emily. So within that
18 list of materials that would be reviewed, they were picked
19 out because of potential toxicological --

20 MS. BROWN: The reason we requested -- in our
21 comments, the reason we pulled these out is because
22 they're all synthetic forms of nitrogen. We feel like
23 there's salt and mine natural sources available in all
24 these cases and that it's not -- and there also is not a

1 good standard of identity, even with AAFCO for some of
2 these chelated protein compounds, so they could be abused
3 and they might be -- we just felt like they needed a more
4 thorough review rather than being lumped in and allowed
5 from the beginning.

6 MR. CARTER: Okay. Further discussion?

7 And George, you didn't explain what the vote
8 was --

9 MR. SIEMON: Yes, I did, and I just want to say
10 all the issues relating to feed ingredients were 5-0 in
11 our committee. So just all the way through these two
12 pages here are 5-0 votes.

13 MR. CARTER: Okay.

14 MR. LOCKERETZ: He gave us a lot of rules.

15 MR. SIEMON: And the other thing about, just to
16 make sure, there is -- one of the other concerns about
17 chelateds was the use of those in -- for medical purposes,
18 and there's a fine line between feeding it for health
19 purposes and feeding it as feed additives, and that was
20 another reason why we were concerned about automatically
21 limiting these without going through the whole herd health
22 part of it yet.

23 MR. CARTER: That's right.

24 MR. SIEMON: Because this is strictly in the

1 feed.

2 MR. CARTER: Okay. Jim.

3 MR. RIDDLE: Yes. I just want to be clear on
4 what we're doing here. I thought I had heard you say,
5 Dave, this morning that this would be presented and we'd
6 have overnight to think about it and then we'd actually
7 vote on it tomorrow?

8 MR. CARTER: No. We actually said that this
9 one would be brought up for action today. The intent was
10 to have the access to outdoors for poultry and the dairy
11 herd replacement brought up today and then voted on
12 tomorrow.

13 MR. SIEMON: And effectively, this is what went
14 out for public comment except for that we went further now
15 and identified some that we think need review.

16 MR. CARTER: Yes. Okay. Kim.

17 MS. BURTON: The ones that need review -- would
18 we be putting that out for public comment so that we don't
19 just automatically do TAP reviews on those? I mean,
20 that's what I would recommend to see if there's anybody
21 really actually using them out there or if there is any
22 prior recommendations or what-have-you.

23 MR. SIEMON: I agree with that.

24 MR. CARTER: Okay. Jim.

1 MR. RIDDLE: Yes. Would there be any problem
2 with holding our vote tomorrow on these and just giving us
3 a little more time to think about it? I guess I would
4 propose that. I would prefer that myself. Does that need
5 to be a motion?

6 MR. CARTER: A request has been made to defer
7 the vote until tomorrow. Let me just ask if there is any
8 objection to that.

9 MR. SIEMON: Well, you're going to put all the
10 work off tomorrow. It's not even on the agenda. You're
11 the boss about the agenda tomorrow, so we're going to put
12 three big votes on tomorrow. We're offloading a lot of
13 our work till tomorrow. So you tell me about your agenda.

14 This has been out. There's been no change in
15 the intent here at all from what we went to public
16 comment. We put more caution in, if anything, by
17 identifying the things we're concerned about.

18 MR. CARTER: That's correct. And I mean, we do
19 have time on the agenda in the morning. My intent is that
20 on these particular items, if those items for action
21 tomorrow would be to take those up first thing. If we
22 have to delay the review of committee work plans until the
23 end of the meeting, we will.

24 We obviously have to leave ample time for

1 public comment, but we've got two hours of time allocated
2 there for the review of the work plans. So I would like
3 to begin by taking up these action items first thing. I
4 know Nancy has to leave by nine o'clock, and so just to
5 make sure we have as many folks here as possible.

6 Okay. So it sounds as -- yes. So I guess
7 there's not unanimous consent, so if you want to delay
8 this until tomorrow, that would have to be in the form of
9 a motion.

10 MR. RIDDLE: Never mind.

11 MR. CARTER: Okay.

12 MR. SIEMON: Is there any other discussion?

13 MR. CARTER: Any other questions, comments?

14 Okay. The motion before you then is to recommend adoption
15 of the language that was read by George. I won't go over
16 all of this.

17 Anybody have a conflict of interest on this
18 issue? None being stated, we'll proceed to vote.

19 All in favor, raise your right hand.

20 Opposed, same sign.

21 Abstention? One abstention.

22 So it is 13 to one -- 13 to zero to one.

23 MR. SIEMON: Okay. The next issue is the
24 incidentals in feed additives, and the recommendation is

1 NOSB recommends the allowance of incidental additives as
2 defined by CFR -- incidental additives used in livestock
3 feed ingredients.

4 The CFR incidental definition, somewhat
5 condensed, Incidentals are present at insignificant levels
6 and do not have any technical or functional effect in the
7 feed. Incidentals are exempt from the feed ingredient
8 labeling requirement. And this is 5-0 also.

9 MR. CARTER: That is a motion. Is there a
10 second?

11 MR. SIEMON: I move.

12 MS. OSTIGUY: Second.

13 MR. CARTER: Okay. It's been moved. Nancy
14 seconded. Discussion?

15 Okay. Kim.

16 MS. BURTON: Can we list which CFR for
17 clarification that this would fall under? Does anybody
18 know?

19 MR. SIEMON: Someone from OMRI or anybody know
20 what the CFR -- that's what went out. That's the
21 original. Let's see -- it's right here.

22 VOICE: 21, Part 57, .100(a)(3).

23 MR. SIEMON: So that's a friendly amendment.
24 That's fine.

1 MR. CARTER: Okay. That being added, okay.
2 Any further discussion?

3 Jim.

4 MR. RIDDLE: Yes. Can you just give some
5 examples of these incidentals just to help us understand?

6 MR. SIEMON: Boy, I might just rather OMRI help
7 us out. You know, I'm not technical, but this is a
8 supportive material to keep a vitamin so that it can be --
9 go all the way to the feed mill and still be viable and
10 then be put into the feed.

11 It's a supportive for the main functional
12 nutrient that there is. And again, it's not required to
13 be in the final feed. And that's part of the -- part of
14 this recommendation is the fact that farmers and other
15 people are not going to be able to even know that there's
16 incidentals.

17 Emily, you got it -- that was my crude attempt.
18 Did you have --

19 MR. CARTER: Yes. Been asked to have Emily
20 Rosen Brown come forward again and give an example of --

21 MR. SIEMON: An example of an incidental, and I
22 said a supportive material in a vitamin pack.

23 MS. BROWN: Okay. What we're talking about is
24 two levels of additives in carriers, so an incidental

1 would be -- see, what happened was an original version
2 that was put out in January, it said, you know, there's a
3 problem with some carriers and ingredient that are in feed
4 that are not on the label.

5 FDA sent a comment back to NOB saying, Not
6 true. Everything has to be on the label except, of
7 course, if we call it an incidental additive. And an
8 incidental additive is something that has no technical --
9 what it says here -- functional effect.

10 It's the same as for in processing, the same
11 definition they use in processing. But in this case, an
12 incidental additive would be something that's in a
13 secondary ingredient. So say you have a vitamin. You
14 have a vitamin D. You get it -- what the farmer would buy
15 is a mixture of, you know, D, whole bunch of A's, C's,
16 plus minerals, all in a package and it's like called a
17 vitamin and mineral mix. And --

18 MR. RIDDLE: Yes. With a carrier that would be
19 on it.

20 MS. BROWN: -- and it will say on it, like,
21 wheat middlings or rice or something like that. So the
22 point is that the carrier has to be organic, but the tiny
23 incidental stuff that's in with those vitamins, such as --
24 it could be a preservative. It could be starch or sucrose

1 that you may or may not ever know if there was some kind
2 of genetically-engineered crop and whether it would be --
3 it's one of those -- so they're saying, Don't count those
4 incidentals, but do count them when they're directly added
5 into the mixture and identified on the label.

6 MR. CARTER: Okay. Kim and then Mark.

7 MS. BURTON: Emily, could these be, like,
8 synthetic solvents for extracting or anything like that,
9 like in processing? Are we looking at -- I mean, I know
10 there's probably preservatives, but what would you say?

11 VOICE: Yes. Yes.

12 MS. BURTON: Cindy, come up here. Yes. The
13 answer is yes.

14 Cindy reviews these products for OMRI and has
15 looked at a lot of these MSCS's and stuff.

16 Well, then just a comment that we, you know,
17 were pretty specific in the processing arena with how
18 these can be manufactured and in some of our materials.
19 So if we don't know, then I suggested that we find out or
20 make a motion to carte blanche it, but I'm a little
21 uncomfortable with that.

22 MS. BROWN: That is a good point that some of
23 these same vitamin, hyperformulations would be, you know,
24 a question for processed food, too, as far as

1 preservatives and vitamins.

2 MR. CARTER: Okay.

3 MR. SIEMON: I just want to make sure about the
4 clarification that we have separated carriers out. So
5 everybody's clear -- this is not at all about any articles
6 or products.

7 MR. CARTER: Okay. Mark.

8 MR. KING: Just a simple question. Could you
9 elaborate just a little bit on insignificant levels? I
10 mean, just in your experience?

11 MS. BROWN: Yes. It's a hard thing to say, but
12 basically, it's -- they call it incidental when it's an
13 ingredient in one product and a noningredient is used in
14 another product. So while it's required to be on the
15 label of the first product, if it comes along and it has a
16 technical functional effect, it will still be small.

17 It's not just -- it's not necessarily an amount
18 threshold level. But it's like the old example from
19 canned tomatoes. You had citric acid in it. Then you
20 used the canned tomatoes in another tomato sauce, but they
21 don't have to list that original citric acid in the
22 secondary product.

23 At that point, it's an incidental secondary
24 ingredient. So that that's -- it's not necessarily a

1 measurement. It's kind of the chain of use. Make sense?

2 MR. CARTER: Okay. Rose.

3 MS. KOENIG: But I guess by approving the
4 recommendation, that doesn't stop someone from petitioning
5 a product that could be used as an incidental if somebody
6 decided or found out that there was something they felt
7 should be prohibited, even as an incidental.

8 That could come before the board, I assume, and
9 be looked at as a material. So this again --

10 MS. BROWN: Yes. Yes. This is still --

11 MS. KOENIG: -- as I understand --

12 MS. BROWN: -- a guidance document, right,
13 basically. So yes, if somebody wanted to come forward and
14 prohibit a specific preservative in vitamin formulations
15 or whatever.

16 MS. KOENIG: And when I -- as I understand from
17 yesterday, George, was that these are lots of things that
18 we're not going to be able to accomplish. They're in such
19 small quantities that you're feeling that we need this
20 policy?

21 MR. SIEMON: Right now, timing-wise, the TAP
22 review money, the time, October 21 is an insignificant
23 part of it.

24 MR. CARTER: Oh. Yes. Okay. Sorry.

1 MR. RIDDLE: Mr. Chair.

2 MR. CARTER: I was --

3 MR. RIDDLE: I was looking for recognition by
4 Emily.

5 MS. BROWN: I'll do that. Sure.

6 MR. RIDDLE: Always, I guess. I'm just
7 thinking about ethoxyquin, and reading on the next sheet
8 that we'll get to, I think that would be covered there as
9 a nonincidental preservative, if it's being added directly
10 to the livestock feed or the feed supplement as a
11 preservative directly.

12 But if it were used as a preservative in the
13 vitamin concentrate that then is used in the feed
14 supplement, that would be incidental in that instance.
15 Correct?

16 MS. BROWN: Correct.

17 MR. RIDDLE: Am I on the right track now?

18 MS. BROWN: Yes.

19 MR. RIDDLE: Okay. Thank you.

20 MS. BROWN: It's in vitamin formulations.

21 MR. CARTER: Jim was referring to the next page
22 where we have nonincidental preservatives, so we broke
23 these issues out to get them as clear. Carriers was
24 debatable -- we took that out. We took anything out that

1 wasn't kind of the unknown world of incidentals here.

2 MS. BURTON: So just for clarification, this is
3 just going to be a guidance document? It's not actually
4 going to be something you're requesting to amend the
5 National List with. Just incidentals as a blanket.

6 MR. SIEMON: I don't know about the final rule,
7 but this is more than guidance. That's the intent here is
8 to clarify what the role of these are in livestock feeds.

9 So our --

10 MS. BURTON: I just heard Emily say a guidance
11 document earlier.

12 MR. CARTER: Okay. Other discussion? Okay.
13 If not, we'll proceed to vote -- oh, yes.

14 MS. BURTON: I'm sorry to be like this.

15 MR. CARTER: That's okay.

16 MS. BURTON: Under OFPA, if we're recommending
17 to add something to the National List, we are supposed to
18 have a technical scientific evaluation, and that's
19 according to OFPA. So I'm a little uncomfortable just
20 adding this to the National List without that kind of
21 review; or at least a more formal recommendation by what's
22 actually in this.

23 And not to stall the process, but just so we're
24 consistent.

1 MR. SIEMON: Just tell me. What's the
2 relationship to this to inerts? We didn't --

3 MR. CARTER: Okay. Technical advice here.

4 MS. BROWN: Now, I would say this -- what the
5 idea, the intent here was to clarify the rule where it
6 says, Approved by FDA. So that's just all this is, is
7 these things are, except where we had to exclude the
8 slaughter byproducts, and with these other ones we're
9 saying are okay for now, but we would like to review
10 eventually because we're not sure.

11 MR. CARTER: Okay. Are you ready to vote?

12 MR. O'RELL: Dave.

13 MR. CARTER: Yes.

14 MR. O'RELL: Just again for clarification, then
15 we're saying this is a guidance document?

16 MS. CAUGHLAN: Clarification.

17 MR. O'RELL: For clarification. It's not for
18 rulemaking?

19 MS. CAUGHLAN: Couldn't be.

20 MR. CARTER: Okay. Mark.

21 MR. KING: Just a quick question. Did you just
22 say, And this would just further clarify at the statement,
23 As ruled by FDA, essentially?

24 MR. SIEMON: Yes.

1 MR. CARTER: Okay. Ann -- oh, okay. Willie.

2 MR. LOCKERETZ: Could someone explain exactly
3 what a guidance document is for me? What can we put under
4 it and what the significance is of putting out one. Is it
5 mandatory, is it suggesting, or what is it?

6 MR. CARTER: I'll take that as a point of order
7 for a quick response.

8 MR. MATHEWS: A guidance document -- the
9 guidance document will tell people what they need to do in
10 order to comply with the regulations.

11 MR. LOCKERETZ: What they need to do; that's
12 the key word?

13 MR. MATHEWS: Yes. What they have to do in
14 order to comply with the regulations.

15 MR. CARTER: Okay.

16 MR. MATHEWS: Well, could be may, not, shall

17 MR. SIEMON: Just so we're clear.

18 MR. MATHEWS: It is a document that is not
19 regulation, but it could have two different purposes. It
20 could be one that tells people exactly what they have to
21 do to comply with the regulation. Another one might give
22 them just some guidance on it.

23 But it depends on the nature of the lab -- of
24 the document that comes out. The bottom line is the whole

1 purpose is to give people the direction that they need to
2 follow in order to comply with the rule. It does not
3 create new rules. It only tells them how to comply with
4 existing rules.

5 MR. LOCKERETZ: Well, how does one decide
6 whether a particular change appropriately can be done by a
7 guidance document or appropriately could be done by a
8 rules change.

9 MR. CARTER: Okay. Well, we have two hands up
10 there for clarification from -- okay, Barbara, Arthur.

11 MS. ROBINSON: Rick, I think you need to
12 explain whether or not a guidance document, whatever it's
13 explaining, whether or not it's enforceable.

14 MR. MATHEWS: Okay. Well, the guidance
15 document itself is not enforceable. The regulations are
16 what are enforceable. The idea of the guidance document
17 is to tell people how to comply. If they can comply
18 without using the guidance document, if they end up at the
19 same point, then that's okay.

20 But the whole purpose of the guidance document
21 is to give people guidance on how to comply. I guess my
22 abilities in the English language are too limited to say
23 anything else. I mean, we've got regulations, and
24 regulations are what people have to comply with.

1 What you're trying to do is provide guidance on
2 how to comply with the regulation. The bottom line is the
3 guidance is not regulation. It's an interpretation of the
4 regulations and how to comply with it. So if you can find
5 a way to comply with the regulation without complying with
6 the guidance document, you're okay.

7 Bottom line is you got to comply with the
8 regulation. And I'm sure that confuses it even worse.

9 MR. CARTER: Okay. Stop. The gallery over
10 there is saying stop, but Arthur has got his -- okay.

11 MR. MATHEWS: Art.

12 MR. CARTER: Okay. Arthur wants to point at
13 Keith. Okay.

14 MR. MATHEWS: Keith, want to try to explain it?

15 MR. CARTER: Please identify yourself for the
16 Reporter.

17 MR. JONES: Okay. I'm Keith Jones, and I'm
18 here to help, so -- guidance documents can be put out by
19 the program to assist people in interpreting the rule,
20 okay. When you do that, though, it is indeed guidance.
21 We do not enforce against guidance. We enforce against
22 the regulation.

23 So if you adopt this as guidance, which is
24 certainly your prerogative to do so, if you adopt it as

1 guidance, it would simply go into an explanatory document.

2 But when it came down to certification, we could not bind
3 this language on anybody, and it appears to me though that
4 that's what you do want to do.

5 You would want to bind this as a permissive
6 part of the regulation as it exists. So it's my belief
7 that in order to go where you want to go with this
8 language, you would actually need to make this as a
9 recommendation to modify the rule.

10 MR. CARTER: Okay. Thank you. Just to move
11 this along, the chair would accept that the motion
12 included that this is a formal recommendation to the rule.

13 Is that --

14 MR. SIEMON: And the one before as well, then.
15 Now, I thought that would be NOP's choice -- which route
16 they channels this. But that's fine.

17 MR. CARTER: Okay. So this is -- okay.

18 MS. BURTON: Can I have one --

19 MR. CARTER: Okay. Kim is --

20 MS. BURTON: I don't know.

21 MR. CARTER: We've got someone looking for --
22 Yes. Go ahead, Rose.

23 MS. KOENIG: I found that comment very helpful,
24 and that's the kind of input I think as a board member we

1 need to know, and I think that goes back to some of maybe
2 Willie's frustrations.

3 I guess you're frustrated at times.

4 But I think -- but I know sitting up and not
5 necessarily understanding all the functionings of the
6 federal government, it really is helpful when we get to
7 these points and we're doing our work that we know where
8 we're going with the information that we're presenting,
9 because that's where some of this communication is
10 breaking down in terms of Willie's question, what are
11 we -- you know, what have we done for the past two years.

12 So if you guys could continue that kind of
13 input, it would be really helpful.

14 MR. CARTER: Okay. Let's get back to the
15 motion. Here, I'll accept the -- okay.

16 MR. SIEMON: I just wanted to say that that's
17 why we had called the second group of things guidelines
18 and the first one, so we -- this whole front page is
19 things that are rule changes. Just so we're all clear.

20 MR. CARTER: Okay. I just -- I'm delaying
21 here, because I have two people flipping through,
22 determining whether or not we can make this as a
23 recommendation, so -- yes.

24 MR. BANDELE: And that's part of my question,

1 that if in fact we're changing this from a guidance
2 document to a rulemaking, would not in fact some
3 modification be in order before it's put forth?

4 MR. CARTER: Yes.

5 MS. BURTON: Okay. Shall I read this section?

6 MR. CARTER: Yes. Go ahead.

7 MS. BURTON: Okay. Section 2119, National
8 Organic Standards Board, page 33 of -- actually, it's page
9 35 of the OFPA, 2119(k)(3), technical advisory panels.
10 The board shall convene technical advisory panels to
11 provide scientific evaluation of the materials considered
12 for inclusion in the National List.

13 Such panels may include experts in agronomy,
14 entomology, health science, and other relevant
15 disciplines.

16 MR. CARTER: Yes, I don't know that -- okay.
17 Go ahead, because I --

18 MS. BURTON: Well, I guess what I'm asking is
19 can this board make a recommendation to add a material to
20 the National List without having a scientific evaluation
21 of a material, and I did not believe that we could just
22 make a recommendation to add something without some kind
23 of an evaluation.

24 MR. CARTER: Yes. Mark.

1 MR. KING: I think this is a question for
2 someone in the program, and I brought this up on a call
3 the other day, and the answer wasn't clear to any of us.
4 And the question is this: If we consider something prior
5 to sending it to a full TAP, is that acceptable?

6 MR. CARTER: Okay. A question for the program.
7 Barbara. Go ahead.

8 MS. ROBINSON: I was going to answer her
9 question first.

10 MR. KING: I'm asking you a question, but.

11 MR. CARTER: Let's get an answer to this
12 question first.

13 MR. KING: Okay. The question is, in this
14 case, if like what we -- the document we have in front of
15 us which includes these specific materials that are
16 listed, and then Kim has read language from OFPA, okay,
17 concerning the technical advisory panel.

18 So my question is this: Does everything have
19 to go for a full TAP, because it was my understanding you
20 must consider first if indeed it requires a full TAP. Is
21 that correct, and if so, how can we deal with this
22 particular situation?

23 MS. ROBINSON: This particular situation --

24 MR. CARTER: Come to the mic, please. Any mic.

1 MS. ROBINSON: Any mic. In this particular
2 situation, since AAFCO and FDA are reasonably considered
3 to be expert bodies, you could consider AAFCO and FDA to
4 have been the technical reviewers of these materials.

5 MR. CARTER: Okay. That's helpful. So we are
6 authorized then to go ahead and move forward with this.
7 Okay. Are you ready to vote?

8 MS. BURTON: Yes.

9 MR. CARTER: Okay. Is there a conflict of
10 interest? Seeing none, all in favor of the motion as
11 presented, the language as presented, indicate by raising
12 your right hand.

13 MR. LOCKERETZ: What words are in front of
14 it -- a recommendation that the rule be modified or record
15 of what status are we [inaudible].

16 MR. CARTER: Okay. This is an amendment to the
17 National List.

18 VOICE: Prohibited or -- [inaudible] prohibited
19 slaughter byproducts?

20 MS. BROWN: We're on incidentals.

21 MR. CARTER: No. No. We're on incidentals.
22 Okay. Okay. Everybody understand?

23 MR. SIEMON: Is there wording needed to clarify
24 that this is a change? That's Emily's question.

1 MR. CARTER: Well, in your motion, as you make
2 it as the motion, please restate the motion that your
3 motion is to add to the National List -- bingo. Okay?
4 And that is the motion.

5 MR. SIEMON: NOSB recommends to add to the
6 National List the allowance of incidental additives as
7 defined by CFR 21, Part 570.100(a)(3) and used in
8 livestock feed ingredients.

9 MR. CARTER: Okay. Everybody understand now?
10 If you support it, raise your right hand.

11 Opposed, same sign.

12 Abstentions? Okay. One abstention.

13 Okay. So it's 13 to zero to one. Okay.

14 George?

15 MR. SIEMON: Do we need to go back now on our
16 first vote to make sure that we -- that that is an
17 addition or a change?

18 MR. CARTER: Yes. Let's go back and clarify
19 and make sure that everybody understands the first vote.

20 MS. ROBINSON: I move to reconsider the vote on
21 vitamins and minerals.

22 MR. CARTER: Okay. Motion to reconsider. Is
23 there a second?

24 MR. KING: Second.

1 MR. CARTER: The maker of the motion having
2 voted on the prevailing side, it's in order. All in
3 favor, say aye.

4 (A chorus of ayes.)

5 MR. CARTER: Opposed, same sign. Okay. It's
6 back on the table. Okay.

7 MR. SIEMON: We just want to add the same words
8 that we just did, which -- I'd just rather we had it read
9 back if we could, but the NOSB --

10 MR. CARTER: Okay. We recommend --

11 MR. SIEMON: -- recommends the following
12 additions --

13 MR. CARTER: -- to the National List.

14 MR. SIEMON: -- following addition to the
15 National List that the -- then.

16 MR. CARTER: Okay. So everybody understand the
17 motion at this point?

18 MS. BURTON: Yes. It's the same motion but --

19 MR. CARTER: Okay. Read exactly what it's
20 going to say. Make your motion and read the language so
21 everybody understands.

22 MR. SIEMON: The NOSB recommends the following
23 additions to the National List -- well --

24 MS. BURTON: That doesn't -- you can't

1 recommend that. That's not a -- just that stuff.

2 MR. SIEMON: Well, I'm trying to get the -- the
3 following allowance or to the National List or -- I'm
4 not -- I lost --

5 MS. BURTON: Recommendation to change the
6 annotation.

7 MR. SIEMON: All right. Recommends the change
8 to -- well, that's what it says later on there. Contained
9 in -- it's really kind of in there in Section 205, isn't
10 it?

11 MS. BURTON: He asked you to read --

12 MR. SIEMON: Read the whole thing? All right.
13 The way it sits right now, The NOSB recommends that the
14 allowance for synthetic vitamins and minerals contained in
15 Section 603(d)(1) and (2) be broadened to include
16 material. So do we need to revisit this? It says already
17 the number and it says to be broadened to visit it.

18 MR. LOCKERETZ: The revisiting was what -- the
19 nature of what we're putting forth here, and it's been
20 made explicit -- this is basically a change in the list.
21 But that was not clear the first go-around.

22 MR. CARTER: So just -- your language needs to
23 say that we're officially recommending this for a change
24 in the National List for an allowance for synthetic

1 vitamins and minerals contained, and continue on with the
2 rest of the language.

3 MR. SIEMON: The NOSB recommends a change in
4 the National List for the allowance --

5 MR. LOCKERETZ: As follows.

6 MR. CARTER: Yes. As follows.

7 MR. SIEMON: -- for the allowance.

8 MR. CARTER: Okay. Colon, capital T, The
9 allowance for synthetic vitamins and minerals -- okay.

10 MR. SIEMON: Okay. Read what you have so I'm
11 with you. The NOSB recommends a change to the National
12 List --

13 MR. CARTER: As follows, colon.

14 MR. SIEMON: As follows, colon.

15 MR. CARTER: The allowance for synthetic
16 vitamins and minerals contained in Section 205.603(d)(1)
17 and (2), and continue on with the rest of the language to
18 the end. Okay?

19 MS. KOENIG: Except you won't be able to say
20 NOSB recognizes. You have to stop at hydrolyzed fat.

21 MR. SIEMON: And then we'll have another motion
22 about requesting a review on those.

23 MR. CARTER: Yes.

24 MR. SIEMON: Okay.

1 MS. BURTON: May I try it?

2 MR. CARTER: Yes.

3 MR. SIEMON: We're going to end at --

4 MR. CARTER: Okay. Kim is going to jump in
5 here and --

6 MR. SIEMON: -- hydrolyzed fat.

7 MR. CARTER: -- help us out.

8 MS. BURTON: Okay. We're looking at
9 recommending a change to the annotation on vitamins under
10 Section 205.603(d)(2), this is the current wording:

11 Vitamins used for enrichment or fortification when FDA-
12 approved, comma, or CFR -- we'll need the CFR -- okay.

13 Or in Sections 57 and 90 on the AAFCO -- or
14 Sections 57 and 90, according to AAFCO.

15 MR. CARTER: Okay.

16 MS. BURTON: For livestock.

17 MS. KOENIG: I would vote on the spirit of
18 what's in the rule. Let the program develop the legalized
19 documentation to fit our spirit, as long as it's in the
20 spirit of what we're writing, and I think it's pretty
21 clear in the content.

22 MR. CARTER: Okay.

23 MR. SIEMON: Okay. So the motion we have right
24 now is that to just add the words, A change to the

1 National List as follows, colon, and then to not attach
2 this last paragraph of NOSB recognizes to that motion.
3 Those are the two changes we have, and I make that motion.

4 MR. CARTER: Okay. Is there a second to that?

5 MS. OSTIGUY: Second.

6 MR. CARTER: Okay. The official motion that is
7 on the table now is that the NOSB recommends the -- well,
8 you have the language.

9 MR. SIEMON: A change to the National List as
10 follows, colon -- or semi -- or colon, the allowance for,
11 and then go right into the wording, The allowance for.

12 MR. CARTER: Okay. And finish. What's the
13 last --

14 MR. SIEMON: The last part is to not include
15 the paragraph starting with, NOSB recognizes in this
16 motion.

17 MR. CARTER: Okay. So the last word in this
18 particular motion would be --

19 MR. SIEMON: Hydrolyzed fat.

20 MR. CARTER: -- hydrolyzed fat. Okay. So this
21 motion continues on, okay. There is a period after the
22 end of the parentheses on 15. Okay. Does everybody
23 understand that?

24 Okay. Do the minute -- notekeepers understand

1 that?

2 Okay. Are you ready to vote? Okay. We're
3 ready to vote. All those in favor, signify by raising
4 your hand.

5 Opposed, same sign.

6 Abstentions. One abstention, so it's 13 to
7 zero to one.

8 Okay. Continue.

9 MR. RIDDLE: I'd like to make a motion -- the
10 paragraph after this is a standalone motion. NOSB
11 recognizes the need to review the following materials and
12 recommends a review by TAP process to determine if these
13 materials should be prohibited.

14 MR. CARTER: And then continue with that list
15 of materials.

16 MR. RIDDLE: That's right.

17 MR. CARTER: Okay. As written.

18 MR. RIDDLE: As written.

19 MR. CARTER: Okay. Is there a second to that?

20 MS. KOENIG: Second.

21 MR. CARTER: Okay. It's been moved and
22 seconded. So the motion is that this is, Recognizing the
23 need to review the remaining materials and going through
24 that list, okay, Tony and Catherine, you with us down

1 there?

2 MR. RIDDLE: The only thing the committee had
3 asked me to do was put all the numbers besides these
4 unreadables. And so we do -- that is in the OMRI, you
5 know, so we do want to add that in the reference number
6 that OMRI has according to all these.

7 MR. CARTER: Okay.

8 VOICE: So you'll provide that to --

9 MR. RIDDLE: I'll provide that.

10 MR. CARTER: Okay. You ready to vote?

11 MS. BURTON: Just one question. I hate to
12 commit to TAP reviews, should comments come back that for
13 some reason we don't want to -- don't support it. So just
14 wanted to make that clarified, please.

15 MR. CARTER: I believe that was the intent of
16 this whole thing is just to get it out there for people to
17 look at.

18 Okay. Jim.

19 MR. RIDDLE: On the almost the third to the --
20 fourth to the last word, is that complex instead of
21 complees?

22 MR. SIEMON: That's what the spelling was in
23 the comments. I looked at it several times, so it's
24 either --

1 VOICE: It should be an X.

2 MR. RIDDLE: Okay. All right.

3 MR. CARTER: Yes. Okay. Let's proceed to
4 vote. All those in favor, raise your hand.

5 Opposed, same sign.

6 Abstentions. Okay. Carries unanimously.

7 Okay. Let's move on to materials approved as
8 ingredients.

9 MR. SIEMON: Yes. The issue came up that is it
10 materials that are approved to be used in processed foods,
11 shouldn't they also be allowed in livestock feed is the
12 issue, and NOSB recommends the addition -- I just put this
13 in the context of a new 205.603(g). I think NOP can
14 decide if that's the right approach.

15 And then that says, All materials in 205.605
16 can be used in organic feed, subject to FDA or AAFCO
17 regulations.

18 MR. CARTER: Okay. Is there a second?

19 MS. OSTIGUY: Second.

20 MR. CARTER: Okay. Nancy seconded.

21 Discussion?

22 MR. RIDDLE: Well, I guess we need to add --

23 MS. BURTON: I was going to -- we should add,
24 according to the annotations, also somewhere in this

1 language, because you don't just want to blanket the
2 allowance for food without -- feed without the annotations
3 also.

4 MR. SIEMON: What annotation? The annotations
5 that are in 605, right?

6 MS. BURTON: 205.605.

7 MR. SIEMON: Okay.

8 MR. CARTER: Okay. Acceptable to the maker of
9 the motion?

10 MR. RIDDLE: Sure.

11 MR. CARTER: Okay. All right. Rose.

12 MS. KOENIG: I just -- I mean, this is new, so
13 I just kind of wanted to get the thinking that was behind
14 this. Not -- I don't know if I agree or disagree with it.
15 Just why did you come about with this? Is there any
16 potential problems with that blanket allowance?

17 MR. SIEMON: Well, you first have the obvious.
18 If it's acceptable for human food, wouldn't it be
19 acceptable for livestock. But then we've thrown in the
20 whole restriction that it has to be subject to FDA or
21 AAFCO, because some of these materials are not allowed to
22 be fed to animals.

23 After that, calcium carbonate -- things that
24 we're dealing with them almost in a second, are in here.

1 So I mean the first thing we passed, so I guess it's just
2 a broader picture.

3 MR. CARTER: Okay. Kim.

4 MS. BURTON: And just from a materials
5 standpoint to support that, there certainly are current
6 petitions in right now that we would be able to defer
7 because of this motion.

8 MR. CARTER: Jeff.

9 MR. RIDDLE: Yes. The original recommendation
10 on this mentioned that NOSB reiterates its recommendation.

11 Was there a previous recommendation to this effect and do
12 you know when?

13 MR. MATHEWS: No, I don't.

14 MR. LOCKERETZ: Question for someone who knows
15 about it.

16 MR. CARTER: Yes. Willie.

17 MR. LOCKERETZ: These things are generally
18 approved qualitatively, but substances used in a minor
19 amount in processed food for humans, is it that same
20 substance might be used in a much higher amount for
21 livestock feed and at an amount that FDA would not have
22 approved in human food?

23 So there's something about the -- the
24 quantities have to be comparable. Otherwise, I'd be

1 reluctant to take over the FDA guidelines and apply them
2 just qualitatively to feeds.

3 MR. SIEMON: Well, again, you have the FDA and
4 AAFCO regulations, and then we have 237 in the rule that
5 has clear guidelines about the use of feed and how they
6 can be used. So you have the whole qualifier of 237 of
7 how feed can be used.

8 Whether it does the job you want or not,
9 Willie, but there's two qualifiers here. The FDA, AAFCO,
10 and then 237. Whether they answer all the questions -- I
11 think they do.

12 MR. CARTER: Discussion?

13 MR. LOCKERETZ: A tiny point of language. I
14 believe it should be, Subject to FDA and AAFCO
15 regulations. That is to say, if either one -- it's a no-
16 no for either one, it's a no-no for livestock feed.

17 MR. CARTER: Okay.

18 MR. LOCKERETZ: That's offered as a friendly
19 amendment.

20 MS. BROWN: [indiscernible]

21 MR. CARTER: Okay. Is there a technical
22 reason? I mean --

23 MS. BROWN: Yes.

24 MR. CARTER: Okay.

1 MS. BROWN: The reason for that is that a lot
2 of these items on the list, if they're -- I think that
3 pulled them out -- there's several calcium sources and
4 stuff that are already on the processing list. They're
5 AAFCO approved.

6 FDA has given discretion to AAFCO, but it's not
7 on 21 CFR, but it's clearly recognized for livestock feed.

8 So the idea was if either is on the official 21 CFR list
9 or it's approved for livestock feed in the AAFCO book and
10 it's on the processing list, it's FDA or AAFCO, and you've
11 already approved it for food. That's the idea.

12 MR. LOCKERETZ: FDA or AAFCO -- is that
13 prohibition or allowance?

14 MS. BROWN: Allowance.

15 MR. LOCKERETZ: So if either one allows it --

16 MS. BROWN: Right.

17 MR. LOCKERETZ: But I'm suggesting that we want
18 both of them to allow it or --

19 MS. BROWN: They won't.

20 MR. LOCKERETZ: -- not to prohibit it.

21 MS. BROWN: One, FDA will not allow it and
22 then -- or it will not prohibit it if AAFCO allows it.
23 FDA always sanctions AAFCO to allow things, so they won't
24 disagree. I mean, it's just that there's more scrutiny if

1 it's on the 21 CFR list. It's a different procedure to
2 get it approved there.

3 MR. CARTER: Okay. So no change in the --
4 okay. George.

5 MR. SIEMON: Well, two points. First off, I
6 don't think we need to do about changing the list, because
7 it refers directly to the numbers, or do we need to also
8 say change in list? I think we're okay -- yes.

9 So the second one is just about the as-
10 annotated. I'm looking through the annotated list here,
11 and it says, For use only in made-with products. We're
12 talking about annotations that -- we're not talking about
13 that kind of annotation, so I'm a little worried now about
14 the addition of as-annotated, because it's -- it has a lot
15 related to --

16 MS. BURTON: As annotated as appropriate.

17 MR. CARTER: Okay. Kim.

18 MS. BURTON: A specific example would be like
19 glycerin produced by hydrolysis of fats and oils. That's
20 a specific manufacturing method of this material that
21 would be applicable to a livestock feed.

22 MR. CARTER: Okay. Further discussion? We'll
23 proceed to vote.

24 MR. SIEMON: The motion is that NOSB recommends

1 addition of a new 205.603(g). All materials as annotated
2 in 205.605 can be used in organic feeds subject to FDA or
3 AAFCO regulations.

4 MR. CARTER: Okay. Is there anybody that wants
5 to state a conflict of interest on this?

6 Seeing none, all of those in favor, say aye or
7 raise your right hand. Sorry.

8 MR. SIEMON: We can do either one?

9 MR. CARTER: Yes. Opposed, same sign.

10 Abstentions? Motion carries.

11 MR. SIEMON: Okay. The next series are just
12 ones that really are -- we feel are cared for already, but
13 just points of clarification since issues have come up.
14 The first is carriers. Carriers are defined as edible
15 material, agricultural material, that -- I'm sorry, I just
16 thought of it -- to which ingredients are added to
17 facilitate uniform incorporation of the latter into the
18 feeds.

19 They are an edible and agricultural product,
20 and so we're recommending that they must be -- satisfy all
21 the requirements in Section 205.237, which means in
22 planning lists, they've got to be organic.

23 So Committee, you had asked me to put some
24 wording in here I think I failed to do. You had asked me

1 to put in, Carriers that are agricultural products.

2 MR. SIDEMAN: Carriers used in food additives.

3 VOICE: Agricultural carriers.

4 MR. SIEMON: I don't know why I missed that,
5 but I just realized it when I was reading that. What was
6 it, Eric, we had said?

7 MR. SIDEMAN: Agricultural carriers used in
8 feed additives. [indiscernible]

9 MR. SIEMON: Boy, am I looking at the right
10 one? I haven't been looking at the wrong one.

11 MS. KOENIG: No. Right here. Agricultural
12 carriers. Right here. And then shall instead of must.

13 MR. SIEMON: Okay. Agricultural needs to be
14 added in front of carriers. I'm sorry, I missed this.
15 And then must -- shall. Well, we had shall. Okay.
16 Must -- shall.

17 MR. CARTER: Okay. So please state the motion.

18 MR. SIEMON: Okay. NOSB recommends that
19 agricultural carriers used in feed additives shall satisfy
20 all requirements in Section 205.237.

21 MR. CARTER: Okay. Is there a second?

22 MS. KOENIG: I'll second it.

23 MR. CARTER: Okay. Rose seconded it. Okay.

24 Discussion?

1 MR. SIEMON: As the top says, these are just
2 clarifications. Did not really change this.

3 MR. CARTER: Okay. Jim.

4 MR. RIDDLE: I just prefer the word must there,
5 if that's not a problem. Sorry.

6 MR. SIEMON: Whatever the -- actually, I think
7 we're just going from shall to must back to shall, so --

8 MR. CARTER: Just as a technical, there's --
9 shall is --

10 MR. RIDDLE: Is the strongest?

11 MR. CARTER: Yes.

12 MR. RIDDLE: Okay.

13 MR. CARTER: And legally, shall is you got to
14 do it.

15 MR. RIDDLE: Okay. I didn't learn that from my
16 mother.

17 MR. CARTER: Okay. Well --

18 VOICE: Let's move through this.

19 MR. CARTER: Okay. So everybody understand?
20 Okay. Any conflicts? Proceed to vote.

21 All in favor, raise your right hand.

22 Opposed, same sign.

23 Abstentions? Okay. Passes unanimously.

24 MR. SIEMON: The next issue is again another

1 clarification that preservatives that are not incidental,
2 that they must go through the whole TAP review process.
3 So NOSB recommends that all synthetic nonincidental
4 preservatives used in livestock feed must be approved and
5 listed in 205.603. Again, a clarification.

6 MS. OSTIGUY: Second.

7 MR. CARTER: Okay. It's been seconded by
8 Nancy. Okay. Discussion.

9 (No audible response.)

10 MR. CARTER: I see no one move forward to
11 discuss this. We'll proceed to vote.

12 Any conflicts? Seeing none, all in favor of
13 the motion, indicate by raising their hand, whichever one
14 you want to raise.

15 Opposed, same sign.

16 Abstentions. Okay. The motion carries, 14-0.

17 MR. SIEMON: And again, on the next one is
18 enzymes. The motion reads, NOSB recommends enzymes as
19 allowed nonsynthetic feed additive, provided they are not
20 derived from excluded methods. That's a little awkward
21 English, I feel, but it gets the message across because
22 again, it's just an obvious clarification.

23 MR. CARTER: Okay. Is there a second?

24 MS. OSTIGUY: Second.

1 MR. CARTER: Nancy seconded. Discussion?
2 Kim.

3 MS. BURTON: Enzymes are currently under
4 205.605(a)(8), with an annotation, and so I think this is
5 unnecessary if you just recommended that anything be used
6 for feed under 605.

7 MR. SIEMON: Just took care of that. All
8 right?

9 MR. CARTER: Okay. So you withdraw the motion?

10 MR. SIEMON: I do.

11 MR. CARTER: Okay. Secunder withdraws?

12 MS. OSTIGUY: Yes.

13 MR. CARTER: Okay. Proceed.

14 MR. SIEMON: Okay. The last one, again, is
15 just another clarification about the word probiotics,
16 which was originally what was passed in NO. Okay. This
17 was passed, I believe, in '95 about the allowance of
18 probiotics, but it's not the right term.

19 So the motion says, NOSB has previously
20 determined that probiotics are nonsynthetics, thus
21 allowed, but NOSB recognizes that the approved feed
22 ingredient label is direct fed microorganisms. So just a
23 clarification.

24 The issue's come up. I don't even know if we

1 need a motion on it, honestly, but these are issues that
2 have come up we were asked to clarify. So I make the
3 motion.

4 MR. CARTER: Is there a second?

5 MS. OSTIGUY: Second.

6 MR. CARTER: Okay. Discussion?

7 MS. CAUGHLAN: Yes. Would this not be a
8 technical correction rather?

9 MR. SIEMON: Sure. But that's -- it's not on
10 the list.

11 MS. CAUGHLAN: Oh.

12 MR. SIEMON: But the question came up. You
13 know, we were asked to address it, so this is what we
14 have.

15 MR. CARTER: Okay. Any other discussion?

16 Mark.

17 MR. KING: Sorry, I'm really confused. This is
18 or is not currently on the list? Is that what you're
19 saying?

20 MR. SIEMON: The natural is not on the list.

21 MR. KING: Oh. So it's not prohibited. Okay,
22 okay, okay. All right.

23 MR. SIEMON: It's just a point of
24 clarification.

1 MR. KING: Thank you.

2 MS. CAUGHLAN: Before the record, the language
3 that --

4 MR. CARTER: Your mic, please.

5 MS. CAUGHLAN: It would seem that for the
6 record to go back, you know, that we might want -- since
7 what we're doing is attempting to correct the language of
8 a previous NOSB determination that we would want to treat
9 it. Just correct the record.

10 Pardon?a

11 MS. BURTON: It's not on the National List.

12 MS. CAUGHLAN: I understand that. But the
13 language is there, and it's incorrect.

14 MR. CARTER: Okay. George.

15 MR. SIEMON: I don't think we need to add
16 anything about the excluded methods. It's the only thing
17 I realize that's not clearly -- the law takes care of that
18 overall. I don't think we need to address that, so I
19 think is just a simple clarification, so I made the
20 motion. Do we want to --

21 MR. CARTER: Is there a second?

22 MR. SIEMON: -- is there a second?

23 MS. OSTIGUY: I seconded.

24 MR. CARTER: Oh, there was a second? Okay.

1 MR. SIEMON: Let's call the vote then.

2 MR. CARTER: Yes. It's on the table. So --
3 okay. Proceed to vote.

4 Okay. Any conflicts? Seeing none -- oh.
5 Arthur has a conflict.

6 MR. NEAL: I've got a question.

7 MR. CARTER: Okay. Go ahead, Arthur.

8 MR. NEAL: What are we moving? I mean, this is
9 a statement.

10 MR. SIEMON: Yes. It's just a statement.

11 MR. CARTER: This is just a statement on behalf
12 of the board.

13 MR. SIEMON: It can be from the livestock
14 committee or it can be from the whole board, whatever's
15 needed. This is one of the things we were asked to
16 clarify.

17 MR. CARTER: Okay. Just clarification. Yes.
18 Okay. This is painless, because -- yes.

19 MR. SIEMON: Let's practice. Yes.

20 MR. CARTER: Okay. All in favor, raise your
21 hand.

22 Opposed, same sign.

23 Okay. Abstentions? Motion carries
24 unanimously.

1 MR. SIEMON: Okay. There's two other issues
2 that are quite big issues that we wanted to address, but
3 we're going to put off the vote till tomorrow. One is the
4 access to the outdoors for poultry, which we do hope to
5 vote on tomorrow, and the other is the replacement for
6 dairy, which we hope to vote just to place for public
7 comment.

8 So that's the process we're at now. I've
9 passed the two documents out. Again, both these were in
10 the -- we'll go through access to outdoors first for
11 poultry. That was in your book also, and we have made
12 some additions. So I'll read it as it stands for the
13 public. Is that all right? Okay.

14 NOSB recommends the following clarification of
15 the final rules requirement that poultry should have
16 access to outdoors. Access to outdoors for poultry. It
17 says, Organically-managed poultry must have access to
18 outdoors during the month when feasible.

19 This is a new line, the next one that we added.
20 Organic livestock facilities must give poultry the
21 ability to choose to be in the house or outside in the
22 open air and direct sunshine. The producers of organic
23 system plan must illustrate how the producer will maximize
24 and encourage access to the outdoors.

1 Number 2, the producer of organic-managed
2 poultry may, when justified in the organic system plan,
3 provide temporary confinement because of inclement
4 weather, A. B, the stage of production -- and we did
5 change this from the original five weeks to sufficient
6 feather and to prevent health problems caused by outside
7 exposure.

8 C, conditions under which the health, safety,
9 or well-being of the poultry could be jeopardized. And D,
10 risks of soil or water quality. So we have changed two
11 things here. We were asked to be more specific and the
12 five weeks had some issues, so we went to the
13 physiological side that OTA had recommended, sufficient
14 feathering.

15 And then the addition that, no matter what the
16 conditions are, the livestock plan and the livestock
17 facility must give the poultry the ability to choose. So
18 there's no confusion, no matter what, they'd have to have
19 a system that shows and is able to do that.

20 MR. CARTER: Okay. This is the recommended.
21 We are not voting on this today. We want to just present
22 this and have some discussion?

23 MR. SIEMON: Yes. So the only -- to take up
24 Rick's question the other day, what are we giving? I

1 think we're identifying that the farm plan of the
2 facilities must have the ability to choose, and then we're
3 doing the physiological things.

4 We actually aren't that unhappy with the
5 present wording, but some have been trying to determine.
6 That present wording in the rule says they can bring the
7 outdoors inside, which still baffles me, but that's still
8 some of the question marks that have been had, so we're
9 trying to make clear the point is the bird actually has to
10 have the choice to step outside.

11 MR. CARTER: Okay. All right.

12 MR. RIDDLE: So are we going to discuss this?

13 MR. SIEMON: Yes. We're going to discuss it
14 now.

15 MR. CARTER: It's on the table for discussion.

16 MS. CAUGHLAN: No --

17 MR. CARTER: Okay. Jim first and then Goldie.

18 MR. RIDDLE: Yes. Just one change that I'll
19 likely propose when we actually discuss it for real, and
20 that is --

21 VOICE: Do it now.

22 MR. RIDDLE: Yes. That the first sentence,
23 that during the months when feasible, I just think's
24 redundant when you've already got the temporary exceptions

1 down below -- inclement weather, risk to soil and water
2 quality. So I think it's unnecessary language myself.

3 MR. CARTER: Okay. We'll consider that. And
4 this is discussion for real. We're aren't just pretending
5 to have a discussion.

6 Okay. Goldie was next. Oh --

7 MR. SIEMON: Well, can I respond to Jim?

8 MR. CARTER: Yes.

9 MR. SIEMON: So you're saying the whole
10 inclement weather would take care of all the winter things
11 and that kind of thing. Right? That's pretty obvious,
12 but that's what you're saying -- the temporary confinement
13 is what takes care of that?

14 MR. RIDDLE: Yes.

15 MR. SIEMON: During the -- I agree.

16 MR. RIDDLE: That's my understanding. You can
17 have inclement weather for several months on end, as we
18 know.

19 MR. CARTER: Other comments? Okay. Kim. Oh,
20 no. Mark.

21 MS. CAUGHLAN: So you're leaving up to the
22 organic system plan the broader issue of quantification of
23 space per bird, as it applies to each individual form of
24 poultry that would be covered, and you're leaving to the

1 organic plan whether or not it would be bare or cement or
2 pasture?

3 MR. SIEMON: Yes. Like I said yesterday, we've
4 kind of picked the middle of the road here, compared to
5 requiring pasturing or not requiring outside. We feel the
6 rule clearly says outside, so we've not gone as far as we
7 could have to require a pasture system.

8 MR. CARTER: Okay. Kim.

9 MS. BURTON: We just heard before that the word
10 shall has more strength in recommendations than must, so I
11 would suggest we change all the musts to shall.

12 MR. CARTER: Okay. So we don't want a musty
13 recommendation here. I'm sorry, that's -- okay.

14 MR. SIEMON: Or moldy?

15 MR. CARTER: Okay. So change every must to
16 shall. Okay. In the language, the recommendation is
17 that, you know, must shall be shall. Okay. Okay.

18 VOICE: The rule says shall.

19 MR. CARTER: Okay. Rose.

20 MS. KOENIG: I just wanted, I guess, a
21 clarification from Rick as the way I interpret the rule.
22 I was sympathetic to some of the disease problems that
23 could occur, frankly, in any kind of operation. Most of
24 the cases were in conventional operations.

1 All of the cases, I guess, that we were looking
2 at were more conventional operations. But in the event
3 that there was some kind of a quarantine -- state-enforced
4 quarantine, that would override our rule. So we are
5 protecting -- you know, putting ourselves in a protective
6 and conservative fashion, I guess, because that rule does
7 allow for state quarantines to override the programs rules
8 during that time. Correct?

9 MR. MATHEWS: Actually, if, for example, the
10 state of Virginia, because of the outbreaks they've got
11 now, said that you couldn't have free-range chickens, then
12 we wouldn't be able to have free-range chickens.

13 MS. KOENIG: In that state.

14 MR. MATHEWS: In that state.

15 MR. CARTER: Okay. Other discussion?

16 Mike.

17 MR. LACY: Thank you. Listening to some of the
18 input yesterday and also some of the input that the board
19 received, I can't disagree that the rule does state that a
20 producer of organic livestock must establish and maintain
21 livestock living conditions, including access to outdoors,
22 shade, shelter, et cetera, et cetera, suitable to the
23 species.

24 And I'd just like to comment on the four things

1 that seem to be at issue here: the disease issue, the
2 welfare issue, what I think may be the most important -- a
3 food safety issue, and also the custom or expectation
4 issue.

5 I think that organic producers are going to be
6 between a rock and a hard place when you look at 205.238
7 that states that a producer must establish and maintain
8 preventative livestock health care practices, including
9 establishment of proper housing, pasture conditions and
10 sanitation practices to minimize the occurrence and spread
11 of disease and parasites.

12 And certainly, the expert avian veterinary
13 opinions that were provided to NOSB indicates that outdoor
14 access will in fact increase the exposure and likelihood
15 of occurrence and spread of serious poultry diseases. And
16 that would be an impact to both organic and commercial
17 producers.

18 One serious concern I have is that most often,
19 and this is certainly the case with the avian influenza
20 situation in Virginia and North Carolina right now, the
21 disease was actually spread before the clinical symptoms
22 of the disease appeared.

23 So you could have birds that looked perfectly
24 healthy and have farmers that are doing their normal,

1 everyday chores and associating at church or whatever, and
2 that disease could be spread before you realize that avian
3 influenza has infected flocks. And that's really how the
4 problem got out of control so quickly in Virginia.

5 There's been some input about factory farms,
6 and I just want to say that in Georgia, there are about
7 4,000 small poultry farmers that make their living from
8 contract poultry production. And although they have never
9 had an avian influenza outbreak, they are going to great
10 expense and great effort to try to protect their flocks as
11 well as their neighbors' flocks.

12 So I think there's more at stake here than just
13 factory farming. There are small farmers, both organic
14 and commercial farmers, that -- whose livelihoods are at
15 stake.

16 Let me talk about the animal welfare thing.
17 That's something that is near and dear to my heart. The
18 scientific input provided on this issue indicates that all
19 natural behaviors known to be critical to poultry welfare
20 can be and are routinely exhibited in poultry housed in
21 barns, houses, sheds, et cetera.

22 And since shelter is a requirement in 205.239,
23 it's pretty much a given that appropriate housing systems
24 are not inherently a detriment to poultry welfare.

1 The food safety issue, I said, is to me very
2 compelling. There's no question that rodents are a
3 source, if not the source, of Salmonella enteritidis in
4 egg-laying flocks. Poultry producers, organic and
5 otherwise, have been encouraged to eliminate exposure to
6 rodents, and I believe that organic customers have an
7 expectation that organic producers will do everything in
8 their power to enhance food safety.

9 And while we're talking about customer
10 expectation issue, the only data to come to the board
11 from -- in this regard was from Mr. Bass yesterday, and
12 his survey certainly wasn't, quote, unquote, scientific,
13 but was focused at actual organic egg consumers, and his
14 finding that 80 percent of his respondents believed that
15 his housing system, with no direct access for his birds,
16 was okay or preferable, seems to refute the notion that
17 well-informed organic customers are adamant about outdoor
18 access.

19 I will -- as I said, I cannot disagree that the
20 law says that the rule says that outdoor access is a
21 necessity, but I hope that we would take into
22 consideration the welfare of the birds and also the
23 livelihood of poultry producers.

24 MR. CARTER: Okay. Goldie.

1 MS. CAUGHLAN: Yes. What, Mike, when you're
2 referring to the small poultry producers that are in
3 George, can you talk about what is meant by small or --

4 MR. LACY: I'm talking about small farms where
5 poultry producers may have anywhere from two to six
6 poultry houses and would contract with an integrated --
7 vertically-integrated poultry company.

8 MS. CAUGHLAN: And a poultry house is -- what;
9 about 10,000?

10 MR. LACY: Usually somewhere in the 15- to
11 25,000 bird range.

12 MS. CAUGHLAN: So a small producer, by that
13 description, would be four times 20- to 25,000?

14 MR. LACY: Correct. Two to six times that.
15 That's correct.

16 MR. CARTER: Okay. Rose.

17 MS. KOENIG: I just have a comment in terms
18 of -- I'm not an animal pathologist but I'm a plant
19 pathologist, and again, I certainly have sympathy and --
20 and you know, I understand the implications of any type of
21 disease outbreak.

22 But I think there is an analogy to the avian
23 influenza, and it's -- there's analogies in plant
24 diseases, such as citrus canker, and we have a citrus

1 grower right here on the -- sitting on the board.

2 So -- but we don't compromise the organic
3 principles in the plant arena for citrus canker. We deal
4 with it on a state-by-state basis, so if Dennis Holbrook
5 has citrus canker on his farm, the state of Texas is going
6 to probably implement some kind of a program such as what
7 might happen in Virginia, and our rule allows that.

8 So I do think that there are precautionary, and
9 there are things in the rule -- there are parts of the
10 rule that do cover outbreaks, and I don't think that we're
11 being negligent by allowing access to outdoors because of
12 diseases.

13 I think that, again, we're adhering to the
14 principles of the rule, and we have those -- we have
15 safeguards in the rule to account for disease outbreaks,
16 whether it is in animal production or plant production.

17 MR. CARTER: Okay. Just as a point of
18 clarification, too. As far as the terms of access to
19 outdoors, that's a nondebatable one under the rule,
20 because that's in the rule. So, you know, what we're
21 doing here is trying to put in the guidance.

22 So -- okay. Mike.

23 MR. LACY: Sorry. Just to respond to that.
24 It's really the preventative. I'm coming from a

1 preventative standpoint. Once you've got the disease
2 outbreak, it's too late. The horse is out of the barn.

3 MR. CARTER: Okay. Thanks.

4 Okay. Jim.

5 MR. RIDDLE: Yes. Before we move on, George, I
6 just want to get back to the language of the text that
7 you've proposed here. Number two, I would like to delete
8 the word an, so it doesn't read, The producer of an
9 organically-managed poultry. We want producers to be able
10 to have more than one poultry.

11 So I would just -- so just, The producer of
12 organically-managed poultry.

13 MR. SIEMON: Good.

14 MR. CARTER: Okay. All right. Okay. Other
15 discussion on this before we move on?

16 Okay. Willie and then Rose.

17 MR. LOCKERETZ: I'm bemused by the language
18 about ability to choose to be in the housing or outside.
19 On a real cold day, the farmer says, Sorry, guys, got to
20 close the door. And they say, Cluck, cluck, cluck, we
21 want to go outside.

22 MS. CAUGHLAN: I think we're all -- I'm pro-
23 choice. I don't know --

24 MR. CARTER: Okay. Rose.

1 MS. KOENIG: So is there -- do you have a -- is
2 there a grammatical change there?

3 MR. LOCKERETZ: No, it's the content. Not the
4 language.

5 MR. SIEMON: Actually, it brings up an issue,
6 and that's the last line is is, The producer will maximize
7 and encourage access to outdoors, because chickens are
8 creatures of habit, and there are things you can do to
9 encourage them to get outside.

10 So they're actually -- we hope the last line is
11 the one that carries it further to maximizing.

12 MR. CARTER: And I hope they're more effective
13 than they are in my 14-year-old son. He likes to sit in
14 front of the TV, so -- okay. Rose.

15 MS. KOENIG: I would like to ask George to put
16 together the grammatical corrections that have been
17 presented, and I make a motion to approve the
18 recommendation of the committee today, because a couple of
19 us will not be here to vote tomorrow.

20 MR. CARTER: Okay. Just a second. There's a
21 motion that's been made. Is there a second to the motion,
22 and it is to make the changes right now and to vote on the
23 language.

24 Is there a second to that?

1 MR. LOCKERETZ: I second it.

2 MR. CARTER: Okay. It's been seconded.

3 Okay. Rick would like to make a comment.

4 MR. MATHEWS: Well, I guess this is perfect,
5 because you're asking for discussion on the motion. The
6 way I would read this is that you could have a dirt area
7 of no specified size on the outside of the barn. You
8 could have a concrete area of no specified size outside
9 the barn.

10 You could have a roof. You may not have a
11 roof. You -- on days when it's too cold they don't have
12 to go out. On days when it's too hot they don't have to
13 go out. If it just rained they don't have to go out. The
14 chickens that lay eggs, if the farmer wants to keep them
15 inside to lay the eggs inside, he can wait until All My
16 Children comes on.

17 And if he has to go home at five o'clock to
18 have dinner and he doesn't want the predators to get at
19 his chickens or his eggs, he closes the doors at five
20 o'clock. So in reality, what you're allowing is maybe
21 from one o'clock to five o'clock on those days when it's
22 not too hot, not too cold, not too wet.

23 Is that really what you want? Just asking.

24 MR. CARTER: Okay. Owusu.

1 MR. BANDELE: Yes. I was concerned about
2 chickens being between a rock and a cement place, too.
3 But I think, though, if you go to the rule, the rule says
4 that it has to be establishment of an appropriate housing,
5 pasture conditions, and sanitary practices --

6 Wait a minute. Is that the one?

7 VOICE: Yes.

8 MR. BANDELE: Yes. So to me, this does not
9 supersede the rule. So they would still have to follow
10 those other requirements in the rule itself.

11 MR. MATHEWS: In essence, what this has done is
12 that it's said, You don't have to have pasture. You
13 definitely can't have outdoors indoors, but you satisfy
14 the requirement by allowing them to have that little sun
15 porch to do their natural thing. And that's the way I
16 would interpret it.

17 MR. SIEMON: Well, both your examples are the
18 minimum, which is in fact -- but we're hoping that the
19 farm plan, as it says, maximize and encourage -- we're
20 hoping. The farm plan is always the tool in organics that
21 pushes people further and further into complying with
22 organic principles. We're not -- you know --

23 MR. CARTER: But I think the analysis is
24 correct. This is the minimum standard. Yes. Okay.

1 Okay. Willie.

2 MR. LOCKERETZ: Of all the things Rick said
3 which, remarkably, I agree, completely agree with, one of
4 the --

5 MR. CARTER: Let the minutes reflect --

6 MR. LOCKERETZ: -- the one about what the floor
7 is made of is pretty serious, and I think we -- I hadn't
8 thought of this when we were drafting these things, but I
9 think some statement to the effect of the acceptable type
10 floor, acceptable type area, is very important.
11 Otherwise, it could be as bad as Rick projects.

12 MR. CARTER: Do you want to make that in the
13 form of a motion?

14 MR. LOCKERETZ: Well, I don't know exactly how
15 to phrase it. I mean, something more positive than
16 concrete doesn't count.

17 MR. SIEMON: But isn't this what -- the comment
18 was earlier about appropriate housing in the other parts
19 of the rule covers some of those things. I agree
20 there's --

21 MR. LOCKERETZ: I looked for that but could not
22 find it.

23 MR. SIEMON: Well, under 238, you have all the
24 different things about appropriate housing and establish

1 appropriate housing, sanitation, pasture conditions,
2 environmental-effective manure. There's a lot of other
3 things that add up to this. I agree -- this is vague.

4 MR. LOCKERETZ: But density -- that is, number
5 of chickens per area. That's pretty important. And what
6 the floor is made out of. So I don't have a suggestion,
7 but I do think it's something worth specifying instead of
8 leaving it in this generic language.

9 MR. CARTER: Okay.

10 MS. CAUGHLAN: I think we need to also again
11 talk about it from the point of view of -- we talked about
12 the first day that we were here prior to the public, when
13 we were talking about public consumer misunderstanding of
14 what is and is not organic, and I think nowhere is there
15 more controversy perhaps.

16 And when it comes to -- just take the term, the
17 ecolabel of free-range. The concept of free-range already
18 has the consumer envisioning trotting across a field of
19 pasture and that there is a much higher, be it appropriate
20 or not, there is a much higher expectation on the part of
21 the consumer.

22 When it comes to ramping it up and paying more
23 for their organic chicken that is -- that has access to
24 outdoors, I think we're really opening ourselves up,

1 unless we give some much more explicit language.

2 MR. CARTER: Okay. The chair is going to
3 declare -- there are a couple of folks in the process of
4 drafting some amending language here, so I'm going to
5 declare, for personal reasons, a five-minute recess. And
6 we will come back and entertain any amendment.

7 (Whereupon, a short recess was taken.)

8 MR. CARTER: Okay. Mr. Riddle. Waiting for, I
9 think, someone who was involved in some preparatory
10 language to come back in the room, otherwise known as Jim
11 Riddle. Okay.

12 MR. RIDDLE: What -- did you say my name?

13 MR. CARTER: Yes, I did. Okay. Was there
14 language being prepared?

15 MR. RIDDLE: Yes, but Mike Lacy came up with it
16 and he was going to talk to you.

17 MR. SIEMON: The amendment is about just adding
18 a minimum square feet for outside. And there's two issues
19 that we could add for specification, and that is about the
20 square feet outside, and the discussion about dirt or not
21 dirt.

22 Those are the two issues. And when we
23 discussed this, we left it up to the farm plan, and
24 depending on the rest of the rule that the farm plan would

1 be where you would apply the pressure to make sure there
2 was not manure contamination and all the different things.

3 So we had purposely left it a little bit
4 flexible so the farm plan would be the vehicle that you
5 would use. But the suggestion's been the minimum of two
6 square feet. As far as the square footage thing, that's
7 pretty small, but that's one of the suggestions that was
8 put forth here.

9 I don't -- we have to decide if we want to go
10 to that specificity. So we -- the committee had elected
11 not to.

12 MR. CARTER: Yes. But I think given this, if
13 there's some language being prepared, we will take this
14 now back to the committee this evening and bring up then
15 the final language for action --

16 MR. SIEMON: Okay. I suggest we move on then.

17 MR. CARTER: Okay.

18 MR. SIEMON: Except for -- no, no. Wait a
19 minute, wait, wait --

20 MR. CARTER: Wait a second. Wait a second.
21 There is a motion on the table --

22 MR. SIEMON: There was a motion to vote.

23 MR. CARTER: -- to vote on this.

24 MR. LOCKERETZ: Not as amended?

1 MR. CARTER: There was -- either the motion can
2 be withdrawn or an amendment can be added or we can vote
3 on the language as it's been presented. Okay. The motion
4 that's on the table right now is to vote on the language
5 as presented.

6 If we move forward with a vote, we vote this up
7 or down, okay.

8 MR. LOCKERETZ: Without amending --

9 MR. CARTER: Unless there's an amendment that's
10 offered --

11 MS. KOENIG: I made the motion. I'm willing to
12 rescind the motion, and I would ask that -- no, we can
13 move on to other committees' reports and perhaps before
14 the end of the day, if you have time, come back with
15 something. If not, tomorrow.

16 MR. SIEMON: But then we would need
17 instructions that we want, for example, to be more
18 specific. Is that the will of the board? Otherwise -- I
19 mean, the committee's recommended the farm plan approach.

20 MR. CARTER: Yes. I'm sensing that there's a
21 desire by the board to have some additional guidance in
22 this document, and I think we can take that. We don't
23 need a formal motion on that.

24 The motion to vote on this has been withdrawn,

1 okay, with the understanding that this will be brought up
2 later. It's not a motion to table. And we will bring
3 forward some additional clarifying language in this.

4 Okay. Owusu.

5 MR. BANDELE: Yes. Before we move on, just
6 want to make one point. I know, for example, under
7 certain scenarios, like in the pastured poultry, some of
8 those pens would be like eight by eight, which would be 64
9 square feet, and they would have, like, over 40 birds in
10 there.

11 So that's just -- I mean, just for
12 consideration, and that would come out to less than two
13 square feet. Now, how that's dealt with I don't know, but
14 I'm just saying that's the reality of it.

15 MR. CARTER: That's correct. Okay. So we're
16 going to move on then at this point.

17 Mike, you were out of the room. What we've
18 done is the maker of the motion to vote on this right now
19 has withdrawn that with the understanding that we're going
20 to add some additional language here and bring it back for
21 a vote if not later today, first thing in the morning.
22 Okay? Okay.

23 MR. SIEMON: Well, okay. Let's move on to the
24 dairy replacements. Just to try to bring some

1 understanding about why this is an issue, first off, dairy
2 is very confusing, but we have two forms of entering into
3 the organic dairy business in the present rule.

4 One is the whole herd conversion where a dairy
5 herd has been part of a farm converting to organics, and
6 they have a specific clause in the rule about how they
7 enter organic dairy.

8 The second method is for a herd of cattle that
9 are not part of a farm converting that they're able to
10 feed 100 percent organic feed for one year and all the
11 other aspects and enter into organic dairy. There's two
12 ways to enter into organic dairy.

13 The confusion over the replacement dairy is
14 that the rule in number two and two -- three, whatever,
15 three i's -- what is it -- I guess it's -- yes, two -- or
16 three i's -- there's a conflict between where you would
17 read that the herds that came with entry clause would have
18 to have all the replacements be the last third of
19 gestation forward, and some could say the herds that came
20 in through the one year would be able to bring replacement
21 animals with the one year.

22 So there's a basic conflict, and then if you
23 read the preamble it adds more confusion. So we're trying
24 to clarify strictly the replacement herd clause and try to

1 equalize it between these two different methods of
2 entering. That's the basic problem that we're trying to
3 wrestle with.

4 So all we've written is about replacement dairy
5 animals. So you all have got this in front of you. What
6 we're hoping to do is to put this up on the Web. Even
7 though the community would love for us to make a vote, it
8 did not get on the Web, and we'd like to put it up for
9 public comment and vote on it in September.

10 So that's the due process part. The community
11 really wants to know, so I think it would be good rather
12 than the livestock committee put it on the Web. Then if
13 we all discuss it enough for the board to put it on the
14 Web so that it shows a little bit more maturity than just
15 a committee moving forward. Just to give a message to the
16 industry.

17 Is that okay? Everybody --

18 MR. CARTER: Read the language. And I know --
19 I see some furrowed brows here, because there's -- and we
20 talked about this over lunch with the committee -- that
21 you really don't want to have as precedent that we have to
22 have board action to put things on the Web.

23 But George's feeling is that we, because of the
24 importance of this issue, we want to have the sense of the

1 board of where we're headed with this. So --

2 MR. SIEMON: Well, we got it settled by
3 September is the main thing, so -- okay.

4 NOSB recommends the following clarification for
5 organic dairy replacement standards. Number one, organic
6 dairy replacement dairy animals must be raised organically
7 from the last third of gestation unless -- and then i. I
8 don't know where i came from, but -- i. Organic
9 replacement animals are not commercially available, in
10 which case the producer may add replacement animals from
11 nonorganic sources, but those animals shall be under
12 continuous organic management upon entry to the organic
13 operations but no less than one year prior to the sale of
14 organic milk.

15 This is more or less what was set out as our
16 earlier proposal, but we removed the part on the
17 medications for the first six months for one major reason,
18 and that is that that's truly a rule change. And we were
19 trying to stay in the world of clarification, and that if
20 the antibiotics issue is an issue, it needs to be applied
21 in a different petition process.

22 And number two, there was debate whether that
23 was the right thing to do in the first place. So this
24 basically is going to the last third and then a

1 commercially available basis for organic replacements,
2 with the one year as a minimum.

3 The one year, just so everybody remembers, is
4 what is said in OFPA, and it is the foundation of this
5 whole discussion.

6 MR. CARTER: Okay. Discussion? So you have a
7 motion to recommend this language on the Web.

8 MR. SIEMON: I wouldn't mind -- I'd like to
9 vote for it, but I'm trying to respect the process.

10 MR. CARTER: [inaudible], yes.

11 MR. SIEMON: Yes. Okay.

12 MR. CARTER: So let's -- yes. Is there a
13 second?

14 MR. RIDDLE: Second.

15 MR. CARTER: Okay. It's been seconded. So
16 this language has been moved and seconded for
17 recommendation to go on the Web for public comment.

18 Jim Riddle. I'm sorry, ma'am.

19 Okay. Discussion? Yes.

20 MR. RIDDLE: Yes. Just one question, George.
21 When it says commercially available, under seeds when it
22 talks about commercial availability, it talks about
23 equivalent variety. And so I'm assuming that for
24 livestock, that would be equivalent breed could be if a

1 producer wants to switch breeds and there aren't any
2 breeds available in organic form, that that would be one
3 justification for commercial availability to kick in.

4 Is that correct? It's not just numbers. It's
5 not any dairy cow, but it could be a specified breed
6 similar to a specified variety.

7 MR. SIEMON: Yes. And of course the quality,
8 too, so it's not very far from the commercially available.
9 We would maybe need to look over what we passed earlier
10 to see if there's any modification, but I think that's
11 something NOP can do for the -- but we could look at that,
12 too.

13 MR. RIDDLE: Yes. The definition of commercial
14 availability says form, quality, and quantity already, so
15 that's covered. But then it has this specific qualifier
16 for seeds of equivalent variety, and I'm assuming that
17 that's --

18 VOICE: Equivalent species --

19 MR. RIDDLE: -- equivalent breed -- yes.

20 VOICE: -- breed. Breed, excuse me.

21 MR. RIDDLE: So yes. Maybe that should be
22 added -- in an equivalent entity, equivalent breed or
23 something.

24 MR. CARTER: Is that an amendment?

1 MR. SIEMON: It's in the definition --
2 commercially available and --

3 MR. RIDDLE: No.

4 MR. SIEMON: -- equivalent breed. Yes, that's
5 fine.

6 MR. CARTER: Can we accept that as a friendly
7 amendment, okay, without having to vote on it? Any
8 objection?

9 Okay. Willie.

10 MR. LOCKERETZ: Question. What's typical for
11 the age of replacement heifers when they're bought from
12 another farm?

13 MR. CARTER: George.

14 MR. SIEMON: It varies all over the map, and
15 honestly, it's usually right close to their first calving
16 and not earlier, but it can go all over. But six month --
17 well, it can be any time from two weeks of age to right
18 before they calve.

19 MR. CARTER: Okay. Kevin, also, if you have
20 some information also --

21 MR. SIEMON: But in the dairy world, the one
22 year has been in place for a long time. So in the organic
23 dairy world, people have been buying the replacements
24 prior, if they didn't have enough farm raised. We'd never

1 had a commercially available position, so now we have a
2 stricter.

3 The calves have to be -- this is very stricter
4 than what we've been so far, and most of the standards,
5 the calves have to be raised organically now all the way
6 through, and then you have to buy organic if they're
7 available.

8 So we've added two strict new things that
9 weren't in the previous -- most of the standards, at
10 least.

11 MR. CARTER: Okay.

12 MR. O'RELL: I know you're looking to me, but
13 I'm really waiting to see when we get this published and
14 get some public comment on the issue.

15 MR. CARTER: And I would just -- to Willie's
16 question about the specifics, the timing. So -- okay.

17 Comment from Rick.

18 MR. MATHEWS: George, it's not just replacement
19 animals that we're concerned with. We're also concerned
20 with animals that are brought onto a farm to increase the
21 size, whether they're born on the farm or brought from
22 another source.

23 And the regulatory language doesn't address it
24 as replacement versus entry. It just addresses it as

1 animals. So what are your thoughts on the entry issue?

2 MR. SIEMON: Well, first I'd like -- you're
3 talking about expansion, for example. Replacement is once
4 you're in production, how do you bring new animals in.
5 Expansion or replacement is the way I'm trying to read
6 that.

7 So I think it's -- this carries over and covers
8 what you are calling expansion. But going back to my
9 initial response, the initial entry -- you can bring
10 animals in to enter dairy with the one year, you know, but
11 this is more about once you're shipping organic milk, how
12 can you expand or replace.

13 I don't know. To me, it's the one year is your
14 backup always in new positions, and this is still a backup
15 here; behind the commercially available is still the one
16 year as a backup. So I don't know how to clarify it more
17 than that, Rick.

18 MR. CARTER: Rick, you still look puzzled.

19 MR. SIEMON: What's the puzzlement? Jim might
20 help me out here.

21 MR. MATHEWS: Well, I guess my problem is still
22 with the word replacement, because replacement implies to
23 me that you've got 100 animals, five of them are coming
24 off, so you put five more in so you still have 100

1 animals.

2 It doesn't answer the question for the farm
3 where they take, say, five off and bring ten on and go to
4 105.

5 MR. SIEMON: Okay. So you'd like to have
6 replacement and expansion --

7 MR. CARTER: Well, okay. Go ahead. Jim.

8 MR. RIDDLE: Yes. I would suggest just a
9 leading replacement. It's organic dairy animals. Does
10 that cover? And how does it read without the word
11 replacement? Let's just try that before I make a motion.

12 MR. SIEMON: Well, I think if you have to have
13 a title that once a farm -- once you're a producer of
14 organic milk. Then you can go there. You have to have
15 that qualifier at the top, I would think, since they don't
16 interfere with the other entry clauses.

17 MR. RIDDLE: Yes.

18 MR. SIEMON: But I think --

19 MR. RIDDLE: But if you -- yes. If you add to
20 the introduction --

21 MR. SIEMON: That's right. Then it would work.

22 MR. RIDDLE: Okay, because I think that would
23 certainly read a lot better than saying replacement and/or
24 expansion animals or something.

1 MR. SIEMON: I was just starting to read once
2 an organic -- you know, I was starting to go there but I
3 didn't quite -- so I agree with you. Let's remove the
4 word replacement and put a qualifier --

5 MR. CARTER: Turn on your mic, please.

6 MR. SIEMON: Let's remove the word replacement
7 and put a qualifier statement over it that this is about
8 once you're in and shipping organic milk. I think that
9 would help clarify what Rick's bringing up.

10 MR. CARTER: Okay. Rick, let me just ask here.

11 MR. MATHEWS: Let me ask this. The current
12 language says in a -- you know, of 236 that the livestock
13 have to be under continuous organic management from last
14 third of gestation except in the case of dairy animals,
15 milk or milk products must be from animals that have been
16 under continuous organic management, beginning no later
17 than one year prior to the production of the milk.

18 I'm a little confused, because it almost sounds
19 like you don't want to change that statement; that you
20 want this other statement to be something in addition to
21 that.

22 MR. SIEMON: Yes. That's correct. And --
23 well, I don't see it here in this final rule. That dates
24 back to NOSB had previously -- and I admit it's not in

1 here -- had always had the foundation that once an animal
2 enters a farm, it had to be treated organically from that
3 point forward.

4 That was always part of some of the earlier
5 recommendations, and I really -- I looked through it last
6 night. I really don't see that in the rule now, but that
7 was one of the premises that we were working on; that once
8 you were on the farm, you had to be treated organically
9 rather than having animals being treated conventional and
10 then switch to organic so they can enter an organic dairy.

11 Once they're on the farm, they had to be
12 organic dairy. So that is the foundation to why that
13 number two becomes the minimum that these other things are
14 building on. So you are correct.

15 MR. CARTER: Follow-up?

16 MR. MATHEWS: Then George, let me ask you this.

17 The dairy is organic, and it's been organic for, say,
18 five years. The dairy farmer suddenly decides they want
19 to add 20 cows that they're going to then use one year
20 later to produce.

21 Does the language that currently exists in the
22 regulation still apply -- that any cow, any age, any
23 source, can come on in any number and go through the one-
24 year period?

1 MR. CARTER: George.

2 MR. SIEMON: It does stand, but we've added the
3 first step that they have to look for organic heifers on a
4 commercially available basis, and that's the marriage
5 between three i and two that we're trying to do. We are
6 trying to make a level playing field between those that
7 came in the entry herd clause to those that came in this
8 other way. So we're trying to bridge between the two.

9 MR. MATHEWS: So --

10 MR. SIEMON: It's going above the present
11 number two is what it is. But so does three i go way
12 above it.

13 MR. MATHEWS: So it's supposed to go -- you
14 would have the single i, then this new entry, and then the
15 double i and then the triple i?

16 MR. SIEMON: Well, I --

17 MS. BURTON: Please call the question, please.

18 MR. CARTER: Well, there's confusion here, so
19 we --

20 MR. SIEMON: See, I was trying to avoid
21 rewriting this because that's -- I was trying to clarify
22 the rule. But the right way for this rule to be written
23 is there's two ways to enter and then replacement, and
24 separate the two issues.

1 You know, that's the correct way to deal with
2 it to avoid the confusion. Right now we're mixing up
3 subjects, so clarify how you can enter organic dairy, then
4 clarify once you're in organic dairy how you would expand
5 or replace animals that you needed to.

6 Those are the two clarification points. So
7 I -- the i, how to work the i's in here, I guess I would
8 make the entry herd, you know, like a number A, and then B
9 the replacements. Something like that, I guess, if I had
10 to just work with this wording right here, and then
11 eliminate number three i, because three i is the one
12 that's making all the confusion.

13 We'll work on it, bring it back tomorrow, and
14 otherwise, the livestock committee will send it forward as
15 it --

16 MR. RIDDLE: But this is just what's going to
17 be posted.

18 MR. SIEMON: Yes. This is just the posting.
19 Yes.

20 MR. CARTER: So you want to withdraw your
21 motion at this point to pass this, and then we'll --

22 MR. SIEMON: Sure. We'll get the qualifier and
23 we'll take out the word replacement is what I've heard
24 here and add commercially available and equivalent breed.

1 Those are the changes we've had here so far.

2 MR. CARTER: Okay. Good. That's -- which I
3 thought would be a helpful process in the beginning.

4 MR. SIEMON: That's all that we --

5 MR. CARTER: Talk about it one day and come
6 back the next, so --

7 MR. SIEMON: That's all that the livestock
8 committee has.

9 MR. CARTER: I just want the record to note
10 that we're back to the process that I recommended in the
11 beginning, so --

12 MR. SIEMON: Except for we may still try to do
13 the outdoors if we could. Okay. Besides further working
14 on the access to outdoors, that's all we have for today.
15 Maybe we'll get back to that.

16 MR. CARTER: Okay. Yes. Back to the agenda,
17 whatever it is. Okay. Are you done?

18 MR. SIEMON: Yes.

19 MR. CARTER: Okay. Then let's move on to
20 materials. Kim.

21 MS. BURTON: Okay. What I'm passing out is
22 Draft 5 of the clarification of Section 205.606. When I
23 presented the draft yesterday, there was some language
24 that I left out per request of Jim Riddle, so I've added

1 that back in.

2 I will go ahead and tell you the areas of the
3 language. On the first page, last sentence, In addition,
4 once the material is placed on the list as not being
5 commercially available in an organic form, the industry no
6 longer has an incentive to develop organics versus of the
7 material. So that's an addition.

8 MR. SIEMON: Would you define this issue,
9 please?

10 MS. BURTON: We discussed it yesterday.

11 MR. SIEMON: Okay. Fine. All right.

12 MS. BURTON: On page 2, I guess the second
13 paragraph from the bottom, just for reference, last
14 sentence, A guidance document on commercial availability
15 still needs to be completed and posted. So those were the
16 two recommendations that I accidentally deleted or left
17 off yesterday's recommendation.

18 There's another area that was brought to my
19 attention by Steve Harper. In the original
20 recommendation, we were recommending that all the
21 materials on that 205.606 just be deleted because they
22 were nonorganic agricultural products, when in fact I was
23 in error.

24 There are strict annotations to two of those

1 materials, one being gums, water-extracted only, and kelp
2 for use as a thickener. So we really don't want to delete
3 those. We're going to suggest that they be moved over to
4 205.605(a).

5 Again, if someone has a problem, they can
6 petition to remove, but that's -- this is the correct
7 document right now.

8 MR. CARTER: So is there a motion?

9 MS. BURTON: I make the motion to approve this
10 document as is version Draft 5, clarification of 205.606.

11 MR. CARTER: The motion is on the table to
12 approve Draft 5, clarification of 205.206. Who was the
13 second and who was the --

14 MR. RIDDLE: I will.

15 MR. CARTER: Okay. You can take your choice.
16 Jim or Goldie, so -- okay. Discussion.

17 MS. BURTON: Kevin.

18 MR. O'RELL: In moving the gums with the
19 annotation, water-extracted only, and having those gums
20 listed, does that then exclude any other water-extracted
21 gums that aren't on that list, because I know when we were
22 talking in committee, we had deleted that because we
23 didn't want to create lists.

24 Now we're moving lists, and the annotation,

1 water-extracted only, is fine, but do we need it by those
2 specific examples or does that exclude all the other
3 water-extracted?

4 MS. BURTON: Well, I guess we would have to go
5 back to the original TAP and were these just references or
6 were these specific gums we were -- I can't answer that
7 question. Looks like I can't answer the question so --

8 MR. CARTER: Is there somebody that --

9 MS. BURTON: I would suggest that we leave it
10 as is, and if somebody -- either we come back and make a
11 suggested annotation change or we actually have people to
12 petition to verify the water-extraction method.

13 MR. CARTER: Technical information only.

14 MS. FRANCES: Greetings to the committee. I'm
15 with the Maryland Department of Agriculture, the organic
16 certification director, Valerie Frances.

17 Just wanted to mention that we do have a
18 company in our state that is in -- they're certified for
19 gums, acacia gum, and they're working on locust bean gum.

20 I understand usually the gums are sold as a blend. I
21 think they're missing one of the gums, but that's --
22 working towards it, sure.

23 MR. CARTER: Okay. Thank you.

24 MS. BURTON: We can take gums back as the

1 processing committee and come back with the
2 recommendation. But for now, this is going to clarify
3 606.

4 MR. CARTER: Okay. Further discussion?

5 MS. BURTON: Oh. Steve has a problem.

6 MR. HARPER: I'm not sure what the original
7 NOSB recommendation was in regards to -- whether these are
8 just examples or not, because I just can't remember. But
9 if you take it off of here, then you've sort of nullified
10 the intent of the previous NOSB, even -- no matter what
11 the intent was, whether it was an example or a -- I mean,
12 if you just delete it, just strictly it, and that's why
13 I'm suggesting leaving it on there.

14 MS. BURTON: He was saying just to leave Arabic
15 [inaudible] like as --

16 MR. HARPER: No. No, I'm just saying if you
17 had deleted the whole thing off of 606, you would have in
18 effect been nullifying the previous decision by NOSB --
19 the previous recommendation by NOSB on a specific
20 annotation.

21 MR. CARTER: Okay. Jim.

22 MR. RIDDLE: Yes, but if this is -- if the
23 gums, for instance, are moved to 605, then does a
24 processor still have to try to source for organic? Does

1 commercial availability still apply once it's put on the
2 605 list?

3 MS. BURTON: It's my understanding anything on
4 the 605 list, if it's --

5 MR. RIDDLE: Any ingredient in a product
6 labeled organic. Correct, if it's an agricultural
7 ingredient, because it still has to try to source
8 commercially available organic?

9 MR. HARPER: Not if it's not 606.

10 MR. RIDDLE: Yes. So that's the problem with
11 moving it to 605 if there indeed are organic sources being
12 developed.

13 MR. HARPER: So you've got sort of a conflict
14 of --

15 MS. BURTON: Yes. Well, we have work to do on
16 605 also. At least for this time being, I think this is
17 the correct move to make. If somebody wants to petition
18 to remove it because there is an organic source available,
19 they can certainly do that.

20 That's the way it is right now with the
21 cornstarch, for example.

22 MR. CARTER: Okay. Any further discussion?

23 Yes. Kevin.

24 MR. O'RELL: Yes. Just for point of

1 clarification, we're saying to move the gums, water-
2 extracted, only in examples to 605?

3 MS. BURTON: Correct.

4 MR. O'RELL: But yet, we're leaving them in the
5 wording now of 205.606. We didn't strike those.

6 MS. BURTON: We didn't want to strike the --
7 that's just -- this is just for your reference. We
8 actually requested that they be moved, if you look at the
9 paragraph below.

10 MR. O'RELL: So is it requested they're moved
11 out of 606?

12 MS. BURTON: Correct.

13 MR. SIEMON: There won't be any materials left.

14 MR. CARTER: Okay. Further discussion?

15 (No audible response.)

16 MR. CARTER: Okay. We'll proceed to vote.

17 Is there any conflicts?

18 Okay. All of those in favor of the motion as
19 presented signify by raising your right hand.

20 Opposed, same sign.

21 Abstentions? Two abstentions. Okay. Which
22 would make us a 12 to 2 and the motion carries.

23 MR. SIEMON: 12-0-2.

24 MR. CARTER: Twelve-0-2, excuse me. Thank you.

1 MS. BURTON: There was one other topic under
2 materials, and that's the Konjac flour, and I mainly put
3 this into the book as a reference for us to look at as a
4 material that would actually fall under a nonorganic
5 agricultural item.

6 And it's on Tab 6. I believe it's the second
7 tab under 6. And I included just the basic manufacturing
8 methods, so you see that it's just -- it's the third page
9 of manufacturing. It just describes the Konjac tubers,
10 slicing, drying, milling, washing, drying. So that would
11 be an example of the material that would now fall under
12 205.606.

13 Okay. And there's no action needed; just a
14 reference.

15 MR. RIDDLE: Was there a petition? I'm sorry,
16 I missed -- I was spacing out there for a minute or
17 something -- was there a petition submitted for Konjac
18 flour. Shouldn't there be a recommendation? I mean, we
19 did on a couple of other things that we determined were
20 agricultural and commercial availability applied, but --

21 MS. BURTON: We did on materials that were
22 currently on the list. I would think that if we passed
23 the recommendation, although it's not part of the Act,
24 this would now be an example of the filing of 606.

1 We did not have a technical review of this
2 material or anything, so --

3 MR. RIDDLE: Oh, okay. Yes.

4 MS. BURTON: -- I think until that really
5 becomes final, we can't review that material.

6 MR. RIDDLE: Okay. I just forgot where it fell
7 in the process. It was weeded out earlier on. Then going
8 through the TAPs --

9 MS. BURTON: It never went through a TAP.

10 MR. RIDDLE: -- to a committee and all that.
11 Okay. Thanks.

12 MR. CARTER: Okay. Anything else?

13 Kim.

14 MS. BURTON: That's it.

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

16 Okay. Let's move on to processing. Couple of
17 items and then we'll have a point of clarification over
18 some action that was taken this morning, so --

19 MR. KING: Yes, and as I understand, where
20 this -- this whole session will be points of
21 clarification. Yesterday -- and I'll just read this
22 quickly to let you know, and this, as I understand it,
23 doesn't need a vote but I want you to know that it's just
24 moving forward as an example of something that can be used

1 in the industry and will be posted on the NOP Website, and
2 that is an ingredient affidavit.

3 So members of the organic community have just
4 expressed a need for guidance concerning the documentation
5 of ingredients. So the processing committee recommends
6 that the following ingredient affidavit just simply be
7 submitted the national organic program for -- as guidance,
8 essentially.

9 MR. LOCKERETZ: Is that in our book?

10 MR. KING: No, but you will get copies of it.
11 Sorry, Willie. Thanks.

12 MR. LOCKERETZ: That's all right.

13 MR. KING: And thus, did you want to bring up
14 the earlier point as --

15 MR. CARTER: Yes. Okay. There was confusion
16 over how Robert's Rules of Order handles abstentions and
17 went and got a copy of language from Robert's Rules of
18 Order and just parliamentary procedures.

19 Abstentions. When a vote is needed and a
20 member does not feel that he/she has enough information to
21 vote on the matter in an appropriate fashion, he/she can
22 abstain. This indicates neither or no vote. All
23 abstentions will be recorded as such. However, they will
24 be tallied with the majority vote.

1 Okay. So in this issue, the language then
2 regarding, under DEAE, the motion that was on the table,
3 For use as boiler water additive in livestock -- oh, I'm
4 sorry.

5 Okay. The motion that was voted on, DEAE for
6 use as a boiler water additive in livestock feed until
7 October 21, 2005, was voted on. The margin was eight in
8 favor, three opposed, and three abstention. That --
9 according to the rules, then, that motion does carry
10 because the three abstentions go with the prevailing side,
11 effectively making that an eight to three vote. Okay.

12 MS. KOENIG: Can that be reconsidered, though,
13 based on the fact that --

14 MR. CARTER: Eleven to three vote. Excuse me.
15 So if there is a desire from someone voting on the
16 prevailing side, which has to be one of the eight or one
17 of the abstainers, a motion to reconsider.

18 MS. KOENIG: I'll move that motion to
19 reconsider.

20 MR. CARTER: Okay. There's a motion to
21 reconsider. Is there a second? Is there a second to the
22 motion to reconsider?

23 VOICE: Who is eligible to second?

24 MR. CARTER: Anybody's eligible to second.

1 MR. LOCKERETZ: I second.

2 MR. CARTER: Okay. All of those in favor of
3 reconsideration, signify by saying aye.

4 (A chorus of ayes.)

5 MR. CARTER: Opposed, same sign.

6 (No audible response.)

7 MR. CARTER: Okay. So -- now, the motion has
8 to be made again. Somebody make the motion, and the
9 motion that was on the table was that, DEAE for use as a
10 boiler water additive in livestock feed until October 21,
11 2005. Does somebody want to make that motion?

12 MR. SIEMON: I make that motion.

13 MR. CARTER: Is there a second?

14 MS. KOENIG: I'll second it.

15 MR. CARTER: Okay. George made the motion,
16 Rose seconded it. Okay.

17 MR. HOLBROOK: Point of order.

18 MR. CARTER: Yes.

19 MR. HOLBROOK: If we've already voted on it and
20 now we have a ruling of what it is, then why are we voting
21 on it again, because it already passed?

22 VOICE: It changed the status.

23 MR. HOLBROOK: It changed the status?

24 MR. CARTER: Yes. It changed the outcome of

1 the vote. Okay. Previously, the chair had ruled that the
2 motion failed. This being the case, that meant the motion
3 carried. So I really want to bring this back up so that
4 everyone who's voting on it, we know exactly --

5 MR. HOLBROOK: Okay. All right.

6 MR. CARTER: Okay. So -- okay. The motion to
7 reconsider was made by Rose.

8 MS. KOENIG: No.

9 MR. CARTER: Oh, excuse me.

10 MS. KOENIG: Oh, the motion to reconsider?

11 MR. CARTER: Yes. The motion to reconsider was
12 made by Rose and seconded by Willie. Okay. That's a
13 nondebatable motion and it was just put to a vote and
14 carried. Okay -- unanimously. Okay. The motion then to
15 adopt the language that DEAE for use as boiler water
16 additive in livestock feed until October 21, 2005, was
17 made by George and seconded by Rose.

18 MS. KOENIG: There were [indiscernible] of
19 boiler water additive added to the packaging
20 sterilization.

21 MR. MATHEWS: That one's not it.

22 MR. CARTER: Okay. Discussion on this motion,
23 then?

24 MS. KOENIG: I'm sorry; I'm confused. Read it

1 again. What will --

2 MR. CARTER: Okay. The wording that we were
3 voting on is that DEAE for use as boiler water additive in
4 livestock feed until October 21, 2005.

5 MR. SIEMON: Shall be allowed.

6 MR. CARTER: Shall be allowed, yes. Okay. All
7 in favor, say aye.

8 (A chorus of ayes.)

9 MR. CARTER: Opposed, same sign.

10 (A chorus of ayes.)

11 MR. CARTER: Okay. Let's -- okay. Show of
12 hands. All in favor, say aye -- raise your hand.

13 VOICE: In favor?

14 MR. CARTER: Yes. All in favor. Okay. One,
15 two, three, four, five, six, seven, eight in favor again.

16 Okay. Opposed? One, two, three, four, five.
17 Okay.

18 And abstentions? One abstention. So it
19 effectively makes the vote nine to five. Eight-five-one
20 is nine to five, effectively, for purposes of counting the
21 vote, and someone who knows math is -- it's got to be ten.

22 So it still fails. Okay.

23 Okay. I apologize for the confusion on that.

24 The language explaining how abstentions will be handled

1 will be included in the board policy manual. Okay.

2 MS. CAUGHLAN: Point.

3 MR. CARTER: Yes.

4 MS. CAUGHLAN: The abstainer was Willie?

5 MR. LOCKERETZ: Yes.

6 MR. CARTER: Yes.

7 MR. BANDELE: Mr. Chair, that was the only case
8 in which the abstentions --

9 MR. CARTER: That's the only one in which the
10 abstentions would have changed the outcome of the vote.
11 Okay.

12 Then let's move on to crops.

13 Yes, Owusu.

14 MR. BANDELE: Yes. I'm passing out the
15 material, Dave.

16 MR. CARTER: Okay.

17 MS. KOENIG: Do you want me to do the
18 transplant?

19 MR. BANDELE: Yes, go ahead. Yes, that would
20 be good.

21 MR. CARTER: Okay. Rosie.

22 MS. KOENIG: I'll just go ahead and do the
23 transplant, because as far as I recall, there were no
24 changes in that statement of clarification. So it's

1 under -- it's 8 and sandwiched under -- between some of
2 those orange sheets.

3 It reads, Crops committee statement on planting
4 stock for perennial crops grown as annuals. You all saw
5 it yesterday. No changes. Basically, defining
6 strawberries or other perennials that are grown as annuals
7 should be interpreted as annuals and fall in Sections
8 205.204(1) and (2) rather than those -- rather than
9 looking at them as perennial planting stock.

10 After we vote on this, then I'll provide that
11 clarification on the question we had yesterday.

12 MR. CARTER: Okay. So is this a motion to
13 adopt this language?

14 MS. KOENIG: It's a motion to adopt the
15 language.

16 MR. CARTER: Okay. The motion is on the table
17 to adopt the language. It's included under Tab 8.

18 MS. OSTIGUY: Second.

19 MR. CARTER: It's been seconded by Nancy.
20 Okay. Discussion.

21 (No audible response.)

22 MR. CARTER: Okay. Seeing no discussion,
23 assuming that we're ready to vote, all of those in favor
24 of this language, signify by saying aye.

1 (A chorus of ayes.)

2 MR. CARTER: Opposed, same sign. The motion
3 carries.

4 Abstentions? The motion carries unanimously.

5 MS. KOENIG: The only other comment that I just
6 want to make sure got into the minutes was that Rick
7 reviewed the question that I had yesterday, which I had
8 posed regarding clarification on annual transplants, just
9 to really clarify whether planting stock and also seeds,
10 if they're treated prior to --

11 Eric, please help me on this. You're better at
12 it. It's so confusing.

13 But basically, we were discussing whether if
14 you pick up a transplant from a commercial grower that has
15 done it conventionally and has sprayed with prohibited
16 materials, would that be allowed under 205.204(1).

17 And Rick said as long as it was preharvest in
18 terms of seed and pre-obtaining in your arms -- it was a
19 pretreatment rather than a post-treatment -- so if you
20 pick up a transplant and before you leave the greenhouse
21 they say, Let me dip this in a little bit of Captan here
22 for your drive, that would not be allowed.

23 So I just want to state for the record for
24 certifiers that that is how it is interpreted; that people

1 can purchase commercial transplants if they are not
2 commercially available in organic form.

3 MR. SIDEMAN: Rosie, what are transplants?

4 MS. KOENIG: I mean, sorry. Planting stock.
5 I'm sorry.

6 VOICE: [inaudible] prohibited?

7 MS. KOENIG: No, they -- go ahead, Rick. Yes,
8 please.

9 MR. CARTER: Okay. Microphone on, please, if
10 you're going to talk.

11 MR. MATHEWS: Okay. Here's the way it works.
12 Under 204, you must use organically-grown seeds and
13 planting stock. That's the number one requirement, which
14 means no prohibited substances, except that nonorganically
15 produced untreated seeds and planting stock may be used to
16 produce an organic crop.

17 What this means is that the crop may be grown
18 using prohibited substances, because it's a conventional
19 product or conventional plant. You can do that. What you
20 cannot do under that one is to pluck it out of the ground
21 and dip it into something to treat it or to spray
22 something on it to treat it.

23 So basically, if it's preharvest, the addition
24 of the substance is okay. If it's post-harvest, it is

1 not. The item two addresses that post-harvest treatment
2 of the plant or the seed. There, if you do that, you have
3 to have a substance that is on the National List.

4 MR. CARTER: Yes. Owusu, though, has --

5 MR. BANDELE: Yes. So there's still some
6 concerns, as I appreciate, with strawberry folks who post-
7 harvest. It could be treated, but I suppose that if
8 that's required by law that that would take care of that
9 if it's a -- am I right, Rick?

10 MR. MATHEWS: Yes. If it's a final sanitary
11 issue that's under some state or federal law, you would
12 still have to comply with that law and it would not
13 necessarily knock you -- it would not knock you out of
14 organic status.

15 MR. BANDELE: Okay. Then my second question
16 has to deal with, okay, this is dealing with planting
17 stock and not transplants. Okay. So I'm interpreting
18 Irish potatoes, the tubers, the sweet potatoes, and all
19 those other vegetatively propagated vegetables. Is that
20 correct?

21 MR. MATHEWS: You're talking about treating the
22 tuber?

23 MR. BANDELE: No. In other words, once it's
24 harvested. Once the tuber is harvested or, like, for

1 example, in sweet potatoes, a lot of times the bed is
2 treated and then they get the slips from that -- from
3 those mother plants, so to speak.

4 But your interpretation is stating that even
5 though that bed is treated, as long as those -- and they
6 do call them transplants, but let's call them slips.
7 That's the other word and to avoid that confusion -- that
8 as long as they're not treated after they're taken from
9 that treated bed, then that's okay because they're
10 planting stock and not transplants?

11 MR. MATHEWS: So you're talking about the
12 treatment was already in the soil at the time that they
13 were growing?

14 MR. BANDELE: Yes.

15 MR. MATHEWS: But you're going to grow them in
16 that soil. Correct?

17 MR. BANDELE: Oh, no, no. In other words, this
18 would be like an organic grower who did not have access to
19 sweet potatoes, who bought them from a farm that did this,
20 but he's planting that -- or she is planting that on their
21 organically-certified operation.

22 MR. MATHEWS: But the soil that he's planting
23 it into is a treated soil?

24 MR. BANDELE: No. It's going from a treated

1 soil where the slips -- where the planting stock was
2 produced to an organic farm that has not been treated.

3 MR. MATHEWS: All right. So there's a stop in
4 between the time that it was plucked from the ground and
5 the time that it made to the organic farm. If it goes
6 from the conventional farm and then is plucked -- is put
7 back into the ground, I would interpret that as a
8 treatment.

9 MR. BANDELE: No, no. I think you're missing
10 something here.

11 MR. CARTER: Barbara, to a mic.

12 MR. MATHEWS: Yes. I guess I'm not following
13 Owusu.

14 MS. ROBINSON: Owusu's the organic grower.
15 He's getting the yams, the tubers, from another supplier
16 and then he's taking them back some place else.

17 MR. BANDELE: Not the tubers.

18 MS. ROBINSON: It's the slip is the plant that
19 comes from the tuber, just like -- and you can use it,
20 it's analogous to the strawberry situation because that's
21 why I was asking. Typically, it's plug production now.
22 It's not just grabbing that plant.

23 You go to a commercial plug operation. They're
24 taking the daughter plants and then growing them -- or the

1 tips -- and they're growing them as plugs in a greenhouse
2 in a commercial soil mix on those commercial conventional
3 farms and being treated.

4 MR. CARTER: Okay. Barbara, continue, though.

5 MS. ROBINSON: Why wouldn't you treat that then
6 analogous to seeds? You're talking about something that
7 actually comes from the root -- from the plant.

8 MR. CARTER: Okay. Jim and then Eric, if you
9 have some --

10 MR. MATHEWS: It seems to me that what you're
11 really saying is that it's still coming from a
12 conventional source, and I've already said that if it's on
13 a conventional source and then it is removed from the soil
14 and then taken to the organic, as long as from the time
15 that it was removed from the soil to put it onto the
16 organic, as long as the treatment was only with an allowed
17 substance, you're okay. Did --

18 MS. KOENIG: We're going to have to go back on
19 this, Rick. There's

20 MR. CARTER: Okay. Eric, explanation, and then
21 Jim.

22 MR. SIDEMAN: Okay. What that first section is
23 referring to is allowing planting stock and seeds, because
24 there are some annual crops that are raised from planting

1 stock instead of seeds, and these include things like
2 garlic, regular white potatoes, sweet potatoes. And what
3 we've tried to do with this, we've also added strawberry
4 plugs.

5 MS. KOENIG: And they are planting stock.

6 MR. SIDEMAN: That's right. They are planting
7 stock. What we're trying to do is get them to -- we've
8 been trying to get them, even though sometimes they're
9 raised as perennials, if they're raised as annuals, we're
10 trying to get them to be considered under that section. I
11 think the number's one there.

12 Okay. So what this is allowing is that you
13 have to use organic production until organic planting
14 stock or seeds are not available. Then you can turn to
15 conventional production. And essentially what you're
16 talking about is however those particular planting stocks
17 are produced, conventionally, we're going to allow them,
18 if you can demonstrate to your certifier that you can't
19 find organic ones.

20 And in potatoes, it's just harvesting the
21 tuber. In sweet potatoes, it's harvesting the slip. In
22 strawberries, the conventional production is actually the
23 raising of the strawberry plug from a daughter plant. And
24 so that makes it a little bit confusing, but it's still --

1 the conventional production is raising it in a tray under
2 a misting system.

3 As long -- and I think I'm getting to where
4 you're saying -- as long as after you harvest it from that
5 tray, then you can no longer treat it with a prohibited
6 substance. But they can treat it any way that is
7 permitted under conventional production systems before you
8 take it from the tray or harvest the potato or --

9 And it's the exact same thing with seeds. If
10 you're buying a bean seed or a pea seed or whatever those
11 are, it doesn't matter how they raise them. If you've
12 demonstrated commercial unavailability, then you can buy
13 conventionally-raised pea seed.

14 What you can't do is buy that conventionally-
15 raised pea seed and then treat it with Captan.

16 MR. MATHEWS: And I would say you just said the
17 exact same thing I meant, only you said it better. Thank
18 you.

19 MR. CARTER: Jim.

20 MR. RIDDLE: Yes, and you said what I was going
21 to say, only you said it better. But -- no. The only
22 thing I wanted to add was just -- and I think it helps
23 answer the question -- is just to read the definition of
24 planting stock.

1 Any plant or plant tissue other than annual
2 seedlings but including rhizomes, shoots, leaf or stem
3 cuttings, roots, or tubers used in plant production or
4 propagation. So that definitely covers your sweet potato
5 slips.

6 MR. CARTER: Okay. Kim first and then Owusu.

7 MS. BURTON: Just an observation regarding
8 commercial availability. We have a mechanism, or at least
9 the industry is trying to develop through OMRI, this bank
10 of commercial availability seeds. We also, in the
11 processing arena, are trying to develop some way to have
12 this commercial availability processing ingredients.

13 And one, I'm curious how this is going to be
14 handled in the crops area. I see this as, you know, if it
15 could be mismanaged, you know, somebody's just going to
16 say these strawberry plants aren't commercially available,
17 so I'm going to go and plug in these to my soil with
18 prohibited substances.

19 So that's an observation to try to look at the
20 big picture of this. I believe in commercial
21 availability, but I also believe that a farmer should have
22 to try just as hard as a processor or anybody else to seek
23 alternative methods.

24 MR. BANDELE: Yes, and I agree, Kim, and I

1 think earlier on the crops committee submitted the
2 recommendations in terms of commercial availability and
3 documentation for those types of shortages.

4 I just had a couple other clarifying points.
5 This still states, though, that -- it doesn't state, but
6 you're still bound by the GMO issue when dealing with
7 these materials, number one. Secondly, this would take
8 care of the tissue culture thing, because all that's
9 preharvest.

10 So tissue culture in which some additives would
11 be added to the stock solution would be allowable, because
12 that's preharvest. My only other concern -- and this is
13 kind of a technicality -- but let's say someone may be
14 trying to get around that.

15 You can in fact produce tomatoes from cuttings.

16 So in that case, would that be allowed, even though
17 traditionally, everybody's going to do planting stock --
18 but I mean as a transplant. But if you're trying to get
19 around the system, you could in fact take cuttings from
20 tomatoes and treat that as planting stock.

21 Rick.

22 MS. KOENIG: Owusu, I would say on the tomato
23 issue is that -- I mean, that would really be looked upon,
24 I guess, by a certifier. If those seeds were available

1 and they felt it -- well, I mean, if those seeds were
2 available organically, then they would be obliged to
3 purchase them organically versus getting cuttings from
4 maybe a neighborhood farm.

5 So I think it's solved through the commercial
6 availability issue.

7 MR. BANDELE: Yes. The other thing, I think
8 the confusion, as I've went back and read that section, is
9 that 205 -- 204, I believe that the untreated word went
10 just with the seeds. Untreated seeds. In other words,
11 seeds not -- in which a fungicide was not applied so --
12 because in that case, Rick, you couldn't get those -- you
13 still can't get treated seed from that conventional farm,
14 as I appreciate.

15 But I don't think that that untreated word went
16 with the planting stock. Now, I could be wrong on that,
17 but that to me is my interpretation, Jim, regardless of
18 that frown on your brow.

19 MR. MATHEWS: I disagree with that
20 interpretation.

21 MR. CARTER: Okay. So unless there's action
22 here, then we will move on.

23 MS. KOENIG: We [inaudible] the action. We
24 just have clarification.

1 MR. KING: Could I just make a simple point.

2 MR. CARTER: Yes.

3 MR. KING: I think you're calling this annual
4 planting stock, and do you mean annual seedling?

5 MS. KOENIG: No.

6 MR. KING: But I don't see annual planting
7 stock listed in the rule.

8 MS. KOENIG: It's defined under planting stock,
9 and then planting stock is referred in that section.

10 MR. KING: Okay.

11 MS. KOENIG: And then there's an annual
12 seedling.

13 MR. CARTER: Okay. We're ready to move on, now
14 that Rose's clarification has left everybody dazed and
15 confused.

16 MR. BANDELE: No, but that -- this action
17 really took care of a lot of stuff.

18 MR. CARTER: Yes. Okay. Owusu.

19 MR. BANDELE: Composting. The document that
20 Eric presented yesterday is basically the same as
21 presented today with the exception of under the process
22 manure materials. There was a recommendation for a
23 change.

24 We took out the frozen and we also was added,

1 Process manure products should be negative with salmonella
2 and less than 1,000 mpn of fecal coliform for 4 grams dry
3 weight material. Other than that, it's the same as was
4 presented yesterday with the exception of Eric also -- and
5 I apologize; they don't quite match up, but we had
6 different sources.

7 So the only thing that you need to look at on
8 the page with the conclusion is the process manure
9 materials. Everything else would be the same as is found
10 in the document.

11 And then secondly, I also included the -- a
12 copy of the definitions that Eric submitted, which were
13 not a part of the package yesterday. So those are the
14 only changes to the composting recommendations. So I make
15 a motion that the NOSB adopt the task force
16 recommendations.

17 MR. HOLBROOK: I second it.

18 MR. CARTER: Okay. The motion has been made by
19 Owusu and seconded by Dennis to adopt the language as
20 presented.

21 Discussion? Seeing none, are you ready to
22 vote?

23 All of those in favor, say aye.

24 (A chorus of ayes.)

1 MR. CARTER: Opposed, same sign.

2 (No audible response.)

3 MR. CARTER: The motion carries.

4 MR. BANDELE: One further question. In the
5 tradition of the strawberries, Rick, where does this sit
6 in terms of -- in other words, as Eric interpreted, it
7 would be -- the CN that be prescriptive, C and N ratio nor
8 the three turnings would be mandatory if their
9 recommendations are adopted.

10 Now, come October 21, what will the situation
11 be in light of the recommendations that were just passed?

12 MR. MATHEWS: You're asking does this document
13 change the regulatory text?

14 MR. BANDELE: In other words, the
15 interpretation of the regulatory text.

16 MR. MATHEWS: You're going to have to give me
17 some more time to look at it.

18 MR. CARTER: Okay. Rose.

19 MS. KOENIG: Just to follow up. What Owusu
20 is -- I mean, we know we didn't go for a rule change. We
21 assumed that your stance as stated before on these -- what
22 do you call them; clarifications or non-rule change but
23 explanations -- that they would be guidance documents as
24 to other ways that you could meet the standard to

1 certifiers.

2 So in fact, as I understood these guidances, if
3 sanctioned by the NOP would be these alternative ways of
4 performing the functions that are written in the rule.

5 MR. BANDELE: Eric, point of clarification. To
6 follow up on Rose's point --

7 MR. SIDEMAN: I missed that entirely, Owusu.

8 MR. BANDELE: Okay. We're talking about the
9 implications of the compost being recommendations. And
10 I'm sorry Barbara left without -- I thought I recalled an
11 earlier discussion in which Barbara pointed out that the
12 points raised here were one way of dealing with it but not
13 necessarily the only way, and that in fact, if these
14 recommendations are adopted as a guidance, then the
15 producers would not be bound to the five turns and the C
16 and N ratio.

17 MR. MATHEWS: Let me ask you this, Owusu. You
18 were -- are you talking about the method that is specified
19 in the regulations as they exist today, or are you talking
20 about how we would deal with the carbon nitrogen and the
21 turning for other types of soil amendments?

22 MR. BANDELE: Okay. Trying to avoid the C
23 word, the compost word, but the thing is, as defined in
24 the document, those other amendments would in fact be

1 compost, as I appreciate it. You may want to comment as
2 chair.

3 MR. SIDEMAN: Formerly known as compost. I
4 hate to say this without Barbara here, but she and I have
5 been e-mailing back and forth, and my understanding -- and
6 I have e-mails of this -- is that she has agreed for me
7 and Zea and Will Brinton and Pat Millner to put together a
8 document that is essentially going to take the high points
9 out of this compost task force report and put it into the
10 forum of essentially a practice standard.

11 And that would be turned over to NOP to review,
12 and then we would work together. And at that point, I
13 don't think that -- what I do think is that other
14 materials besides those in 205.203(c) would be allowed.
15 And so yes, you could make compost without meeting those
16 carbon to nitrogen ratios, once that's accepted by NOP.

17 MR. MATHEWS: So I think the original remarks
18 is you're going to give me more time to study it was
19 right.

20 MR. CARTER: Okay. And just a point of
21 clarification, because there's two actions in a row in
22 which we've adopted a motion, passed a motion adopting a
23 report, and then had the discussion on that particular
24 issue after the motion was adopted. That is not the way

1 we're going to do things.

2 We need to have the discussion, because
3 sometimes this type of discussion will affect the way
4 people vote on it. It's a closed issue now. It's been
5 adopted, so please -- let's have the discussion before the
6 vote.

7 VOICE: I have to say something.

8 MR. MATHEWS: Wait, wait. Let me go first
9 here.

10 David, point well taken, but we had that same
11 exact discussion yesterday, actually.

12 MS. KOENIG: So I'd like to make another
13 motion. And my motion would be I do realize that in
14 September, we have a materials meeting. But I would like
15 to be able to motion to bring this special issue up in
16 terms of an update either from Eric or some representative
17 from NOP so that growers know by September what that
18 situation's going to be, because I think it is a very
19 important issue.

20 MR. BANDELE: I second that.

21 MR. SIDEMAN: And my hope is to have it done
22 before September and give a report on how well we
23 succeeded by September.

24 MR. CARTER: Okay. So the motion is

1 essentially that the report of the compost -- give me --
2 that was a rather lengthy motion.

3 MS. KOENIG: The motion is, is that we would
4 place an agenda item on the next meeting that we have been
5 told is exclusively for materials that would be the
6 accepted update what NOP's position is going to be on
7 this.

8 Regardless of what your report says, we want
9 NOP's position on this issue by the September meeting.

10 MR. CARTER: Okay. So the motion is to put on
11 the agenda the report on NOP's position on the compost
12 thing. Is that -- the seconder. Who seconded? Okay.
13 Owusu seconded it.

14 Okay. Made by Rose, seconded by Owusu.
15 Discussion on the motion?

16 Kim.

17 MS. BURTON: Just one comment. We just now
18 have two days that I imagine at the conclusion of this
19 meeting we're going to discuss our meeting for September.
20 We might have to increase that to three days. We're now
21 to 31 materials.

22 MR. CARTER: The chair has already thought
23 about that, and we've had some discussions. So -- okay.
24 Discussion on the motion?

1 All in favor, say aye.

2 (A chorus of ayes.)

3 MR. CARTER: Opposed, same sign.

4 (No audible response.)

5 MR. CARTER: The motion carries unanimously.

6 Abstentions? Motion carries unanimously.

7 Jim.

8 MR. RIDDLE: Just a request, Eric. As this
9 smaller group gets close to submitting that recommendation
10 to the NOP, would it be possible to circulate it to other
11 members of the NOSB just for any final feedback?

12 MR. SIDEMAN: I'm going to leave that up to
13 Owusu. I still feel the task force is operating under the
14 crops committee, so it would definitely go to crops
15 committee.

16 MR. RIDDLE: Okay. Thanks. No need for a
17 motion.

18 MR. CARTER: Emotion or a motion?

19 MR. RIDDLE: A motion, yes.

20 MR. CARTER: Okay.

21 MR. BANDELE: Moving on to the transitional --

22 MR. CARTER: Okay. I'm sorry. Continue. Yes.
23 That was spacing out.

24 MR. RIDDLE: All right. Yes. As we discussed

1 this yesterday, the transitional product recommendation --
2 I made the changes that were suggested by incorporating
3 some introductory language rationale and then reshaping
4 the recommendation.

5 So for members, you haven't read this yet, and
6 for members of the public here, let me just read through
7 how it currently is drafted.

8 The NOSB provides the following guidance to
9 producers, certifying agents, and state and federal
10 governments on the labeling of transitional products. The
11 NOSB recognizes that the Organic Foods Production Act
12 regulates organic products but that products labeled as
13 transitional are beyond the scope of OFPA and the final
14 rule. The recommendation is offered for guidance and
15 clarification purposes.

16 Rationale. Numerous products are currently
17 labeled and sold as transitional. Several states set
18 regulations defining transitional labeling, and several
19 accredited certifying agents conduct transitional
20 certification.

21 There are differences between existing
22 transitional certification requirements. The
23 recommendation is offered to bring consistency to these
24 requirements. In addition, in at least three states, the

1 USDA's Natural Resource Conservation Service is offering
2 incentive payments to transitional operations.

3 This recommendation will provide guidance to
4 the NRCS for requirements governing those transitional
5 incentive programs. It is anticipated that producers who
6 enter transitional certification and/or incentive programs
7 will have a more complete understanding of the
8 requirements of the final rule when they qualify for full
9 organic certification.

10 This will lead to a higher degree of compliance
11 for such producers. It will also -- no, that's wrong.
12 Allow such producers to receive market-driven consumer
13 recognition for their production practices rather than
14 having to sell their crops for conventional prices.

15 And then the recommendation itself remains
16 presented in the book and on the Web, only the section
17 numbers from the rule have been deleted. And so I changed
18 the word in that final paragraph I read to -- it will
19 also -- no, it's right. I just read it wrong. Never
20 mind.

21 MR. CARTER: Okay. So a motion?

22 MR. RIDDLE: Yes. So I move that the board
23 pass this recommendation.

24 MR. CARTER: Okay. Motion to approve the

1 transitional product recommendation. Is there a second?
2 Owusu seconds. Jim made the motion. Owusu seconds.

3 Discussion? Willie.

4 MR. LOCKERETZ: I'm going to propose something
5 that I think will make life easier for our good friends at
6 NOP and the higher-ups above them, which is that USDA has
7 no authority over the word transition. It doesn't want
8 authority over the word transition.

9 We don't have authority over it. NOP doesn't
10 have authority over it. The Secretary of Agriculture does
11 not, and I don't understand proposing a recommendation in
12 an area that we simply have nothing to do with.

13 Who is this addressed to and -- or why is it
14 being considered by the NOSB which has no jurisdiction
15 over the word transition? I oppose this because it
16 doesn't seem to fit into what we do. And I don't know --
17 we don't put out recommendations in areas that we're not
18 dealing with under legislative authority.

19 MR. CARTER: Okay. I hope everybody's sitting
20 down. I'm going to call on Rick first.

21 MR. MATHEWS: I'm sorry, I have to agree with
22 Willie. This is twice today. Willie and I are doing good
23 on our relationship today. The bottom line is this. We
24 are not going to regulate transition, and we will not

1 enforce transition.

2 And I have seen e-mails that have already been
3 traveling around on the Internet that are saying, USDA
4 rules for transition. I have to say the USDA has only one
5 rule for transition. We don't regulate it. We won't
6 regulate it, and you can't use the word organic on it.

7 So basically, I agree with Willie. I know what
8 Jim's trying to accomplish. If we did anything with it,
9 it would be to post it on the board's portion of the Web
10 with a disclaimer.

11 MR. CARTER: Okay. Goldie.

12 MS. CAUGHLAN: Just -- Willie, you're the one
13 that's very much involved in ecolabeling, and to me, the
14 concept of transitional really is getting very close to
15 being another form of ecolabel. I wish personally to say
16 that I believe that it's unfortunate that we don't have
17 jurisdiction to regulate transitional coming from the
18 state of Washington, where we have long recognized and
19 regulated transitional and where we feel it's been very
20 important.

21 But it simply is not -- I agree. It's not
22 covered by OFPA, but it does seem to me you have a
23 conference coming up on ecolabeling, and it seems to me
24 that one aspect of this is that transitional might be

1 something that comes under your ecolabeling.

2 MR. CARTER: Just a second, because I thought
3 Mark had his -- okay.

4 MR. KING: Yes. Just a quick suggestion, Jim,
5 small, and then a small example. In the first sentence,
6 we're talking about, Provide the following guidance
7 producers, certifying agency, federal governments.
8 Consider please retailers in that because they are
9 labeling it, and I think it's important to be consistent
10 to the consumer.

11 And then secondly, we used to actually label
12 retail products -- or excuse me; transitional products in
13 a retail environment and found that it did help in a lot
14 of senses in terms of not just the producer but also to
15 provide additional clarity to the consumer. So I do
16 support this.

17 And I side with Willie as well. There is some
18 question in terms of what will happen, if anything at all
19 ever, from a regulatory standpoint. But I think it stands
20 on its own merit as guidance, and I support it.

21 MR. CARTER: Further discussion? Okay. That's
22 right. Just a second. Rick. Rick had a comment, and
23 then Owusu.

24 MR. MATHEWS: I guess my only question is why

1 wouldn't the industry actually turn to OTA for this kind
2 of guidance? And the other comment that I would make is
3 that the Act in no way prevents accredited certified
4 agents from having this additional certification ability.

5 MR. CARTER: Okay. Owusu.

6 MR. BANDELE: Yes. I just want to reiterate
7 the point that we're not really watering -- I think I made
8 this point before -- we're not really watering down
9 organic standards. In fact, we're attempting to suggest
10 guidance in making those transitional programs having
11 similarity.

12 Secondly, I think that in some instances where
13 the board can step forth it should, and I know that, for
14 example, we really have no real bound in terms of
15 philosophy of organics, but we did address that issue. So
16 I don't think we're really stepping beyond our bounds to
17 do this.

18 Again, it's just offering guidance. My
19 preference was to have it as a part of the rule, so this
20 is kind of like a compromise position, as far as I'm
21 concerned, on my account.

22 MR. CARTER: Okay. Somebody's -- the
23 question's been called. If there's no objection --

24 MR. RIDDLE: I have.

1 MR. CARTER: Okay.

2 MR. RIDDLE: You had said I would be recognized
3 next --

4 MR. CARTER: That's right. Okay. Go ahead.

5 MR. RIDDLE: -- for closing comments. I wanted
6 to respond to Mark that I accept as a friendly amendment
7 inserting after the word certifying agent in the first
8 sentence, retailers, comma, consumers, comma -- to insert
9 those words in the draft as presented.

10 And I would like to point out that the USDA, in
11 the form of the NRCS, does have practice standards for the
12 incentive payments to transitional producers. And these
13 are consistent with those, and I have been working with
14 NRCS on the development of those.

15 And as far as looking to guidance from the OTA,
16 this language is taken directly from the OTA's American
17 Organic Standards, so it is -- we've certainly looked to
18 guidance from OTA for that.

19 So it -- the goal is to bring consistency.
20 Products are out there. They are -- it's a commitment to
21 organic production methods. It just doesn't have the
22 three-year pedigree, so it does have a direct linkage.

23 We're not entering into other ecolabels here at
24 all. This is an important role, and I'm glad to hear Rick

1 say that it could posted to the NOSB's page of the
2 Website. Thanks -- with a disclaimer.

3 MR. CARTER: Okay. If you're ready to vote,
4 then we will proceed to vote.

5 All of those in favor -- let's raise our hands
6 on this -- all those in favor, raise your hand.

7 Okay. All of those opposed?

8 Okay. So 13 to one, it carries. Understanding
9 that this will probably be something that will be posted
10 on the NOSB's section of the new Website with an
11 appropriate disclaimer.

12 Moving on here, okay. Rose.

13 MS. KOENIG: I'd like to make a motion just to
14 come back to the poultry issue.

15 MR. BANDELE: I think we had one more issue,
16 and that was the farm -- the organic farm plan template.

17 Jim, do you want to address that again?

18 MR. RIDDLE: Oh, I didn't know we needed to.
19 It doesn't take a vote of the board. That's coming from
20 the committee to post to the Website --

21 MR. BANDELE: Okay. Good enough.

22 MR. RIDDLE: -- and for comment.

23 MR. BANDELE: Then in that case, that concludes
24 crops.

1 VOICE: Hydroponics?

2 MR. BANDELE: Hydroponic -- based on a
3 discussion yesterday, the crops committee will reconsider
4 that it was pointed out by Rick that hydroponics is
5 already covered as far as the existing rule is concerned.

6 So what the crops committee will do is try to provide
7 some -- a guidance document, whatever that means, to the
8 hydroponic situation at a later date.

9 MR. LOCKERETZ: So no vote on the standards for
10 hydroponic production? We're postponing that?

11 MR. BANDELE: Right.

12 MR. CARTER: Okay. Any other business then
13 under the crop? Okay. All right.

14 Rose.

15 MS. KOENIG: I would just like to make a
16 motion -- well, just ask to go back to the livestock
17 issue.

18 MR. CARTER: Okay. Doesn't take a formal
19 motion to go back to the livestock and bring that up.
20 Want to just check first, because we do have a couple
21 other things titled here, but there was no business. They
22 are accreditation [inaudible.]

23 VOICE: I believe under reservation is where
24 the agenda [inaudible].

1 MR. CARTER: For national and I believe under
2 international [inaudible].

3 Okay. Then it would be appropriate at this
4 point if we're ready to go back to the access to out-of-
5 doors for poultry. And is there a motion that would come
6 forward now on the adoption of this provision, the
7 recommendation?

8 We will come to the chair of the livestock
9 committee.

10 MR. SIEMON: Well, we have the motion that we
11 improved earlier, but I was asked -- or I was told
12 somebody else was, but I ended up with the task of maybe
13 putting some more specifics to it. So my motion is to the
14 original recommendation earlier. That would be my first
15 motion. But then we could have the amendment with this
16 new wording. I don't know how you want to go about that.

17 MR. CARTER: Okay. If you want to make the
18 motion of the language that was forwarded by the livestock
19 committee, will you send us --

20 MR. SIEMON: As -- and improved by the group
21 earlier. I'd make that motion.

22 MR. CARTER: Okay. Is there a second?

23 MR. LOCKERETZ: Second.

24 MR. CARTER: Okay. It's been moved and

1 seconded to have the language up to the point of our final
2 modification. Okay.

3 MR. SIEMON: So now we're going to consider an
4 amendment. And again, I didn't get a lot of help from
5 this.

6 MR. CARTER: I'm sorry. George moved and
7 Willie seconded. Okay.

8 MR. SIEMON: I didn't get a lot of help, but I
9 just wrote that there was a requirement that we get
10 specifics, so I wrote down, The area provided outdoors
11 should be a minimum of two square feet per bird, and then
12 just to clarify, I wrote, And that area shall be managed
13 in compliance of all requirements of this rule.

14 To deal with the manure, the organic land
15 qualification, the living condition aspects, just to make
16 sure that it's clear that that has to satisfy all the
17 other requirements. I don't know if you need that last
18 part, but I put it in there to make sure.

19 So again, all I did was, The area provided
20 outdoors shall be a minimum of two square feet per bird,
21 and that area shall be managed in compliance with all
22 requirements of this rule.

23 MR. CARTER: Okay.

24 MR. SIEMON: And you're out of ink almost.

1 You're almost out of ink.

2 MR. CARTER: Okay. So the motion is -- repeat.

3 MR. SIEMON: The amendment to be added to our
4 previous work is, The area provided outdoors should be a
5 minimum of two square feet per bird, and that area shall
6 be managed in compliance of all requirements of this rule.

7 MR. BANDELE: I didn't hear the last part.
8 After the two square feet.

9 MR. SIEMON: And that area shall be managed in
10 compliance of all the requirements of this rule. And I
11 don't know if that's necessary or not, but I was trying to
12 deal with the whole manure management aspect of it.

13 MR. CARTER: Okay. So it's been moved and
14 seconded. Discussion just on the --

15 MR. SIEMON: I know that we had a second. Did
16 we on the amendment?

17 MR. CARTER: Yes. Willie seconded it.

18 MR. BANDELE: I still have some concerns about
19 the point I raised, George, before you considered, and
20 that is in those pasturate poultry situations, I think
21 it's less than two square feet. I would like to get
22 further clarification from folks from the pastured poultry
23 industry after the interpretation on that.

24 MR. CARTER: Okay.

1 MR. SIEMON: But that would turn on this motion
2 would help. That amendment is how you do that.

3 VOICE: Someone on the audience.

4 MR. SIEMON: Is there someone that can give
5 feedback on pasture poultry?

6 MR. CARTER: Okay. Somebody responding to
7 pasture --

8 MR. SIEMON: No. Pasture poultry only.

9 MR. CARTER: -- pasture poultry only.

10 MR. SIEMON: This is the movable hutches that
11 have the animals quite tight so they can move from area to
12 area.

13 MR. CARTER: Okay. Anybody that's engaged in
14 pasture poultry?

15 MR. SIEMON: There were people yesterday --

16 MS. BRICKERY: Whether or not, let me answer
17 this question.

18 MR. CARTER: Okay.

19 MS. BRICKERY: If the board feels that it needs
20 more clarification on the implications, please do not --
21 sorry. If the board feels you need more clarification on
22 the implications of what you're doing, please do not vote
23 on this today at five o'clock. This is not good process.

24 And I obviously have no opinion one way or the

1 other about whether two feet is the right number or any
2 number is the right number. I'm just giving you some
3 friendly political advice. I just don't think that's what
4 you want to do.

5 MR. SIEMON: Okay. We're on the amendment only
6 right now.

7 MR. CARTER: Okay. Rick has got a comment.

8 MR. MATHEWS: The two square feet per bird
9 would be a recommendation, as I understand it, or as
10 guidance. But because it is, it would be unenforceable.

11 MR. SIEMON: I'd be glad to take away my
12 amendment and go back to the original proposal.

13 MR. CARTER: Okay. Kim. Then Mark.

14 MS. BURTON: I had -- actually had my hand
15 raised before Carolyn. I feel like we're just pushing
16 some of this stuff so fast, I don't even have the copy in
17 front of me any more. I just can't support moving this
18 forward right now. Thank you.

19 MR. KING: Second, basically.

20 MR. CARTER: Okay. And the chair -- and I can
21 appreciate that some folks have to leave. But this
22 meeting was announced. We're scheduled to be here for two
23 and a half days, and this is an issue that requires some
24 time.

1 And I would have to agree that, you know, in
2 order to make bad policy just to have as many people here
3 making that bad policy is not a good thing. So it would
4 be the recommendation of the chair that we withdraw the
5 amendment; that we again -- it appears increasingly that
6 we're not ready to act on this.

7 MR. SIEMON: Okay. But then I need direction,
8 Kim, what else we need. You have in your hand what's in
9 front of us right.

10 MS. BURTON: Don't have anything more.

11 MR. SIEMON: Yes, you do. That was what we
12 passed out earlier.

13 MS. BURTON: Bring it up tomorrow. I think --
14 sorry.

15 MR. SIEMON: Okay. All right.

16 VOICE: You packed up too early.

17 MS. BURTON: It may be here somewhere, but I
18 can't vote on something --

19 MR. CARTER: We're shuffling too much paper.

20 MS. BURTON: -- it's just too frantic. Sorry.

21 MR. CARTER: Okay. So amendment withdrawn?

22 MR. SIEMON: Okay.

23 MR. CARTER: Okay. Motion is still is still
24 the motion --

1 MR. SIEMON: No. The amendment was withdrawn.

2 MR. CARTER: Yes, the amendment was withdrawn,
3 but there's still then the original motion that was made
4 at this point with the language.

5 MR. SIEMON: No. That was what was being told
6 to not make any decision. That's amendment plus drop the
7 subject right now.

8 MR. CARTER: Okay. So we're just delaying
9 everything, okay, until time uncertain at this point.
10 Okay?

11 MR. RIDDLE: Till tomorrow morning.

12 MR. CARTER: Well, okay, but it will -- okay.
13 Again, I would go back to it was the intent of the chair
14 originally to discuss this today and vote on it tomorrow.
15 Okay? I'm not right very often, okay, so I'd like to --
16 I got to flaunt it, you know.

17 VOICE: You're like the Cleo of organic.

18 MR. CARTER: Okay. So -- yes. And we will
19 have this in writing tomorrow. Okay.

20 Okay. Now there are just a couple of
21 announcements then. And doggone it, I wish I could
22 remember what they were. Okay. Tomorrow we will come
23 back then and discuss this issue, but the other thing,
24 tomorrow morning before we get to the public comment, we

1 are scheduled to spend time reviewing committee work
2 plans.

3 I do want the committees, release the committee
4 chairs to sit down and to really have preferably a written
5 report summarizing what your work plan is between now and
6 September, okay, so that we can have this -- so we can all
7 know what we're working on between now and then.

8 I think that -- and Kim's comment is exactly
9 right. I think tonight informally we ought to discuss a
10 little bit some of the logistics for September, because I
11 think it's increasingly obvious that we may need a three-
12 day meeting.

13 Nancy has requested that if we do have a three-
14 day meeting that it be the Tuesday, Wednesday, Thursday;
15 not the Monday, Tuesday, Wednesday, simply because she has
16 teaching obligations on Monday, Wednesday and Friday. We
17 won't act on that, but I just want us to decide then
18 tomorrow some things on the meeting.

19 I think it's important, with the number of
20 materials that we have to look at in September, that we
21 give ourselves adequate time to do that. And I understand
22 budget implications and the like, so we have to balance
23 all of that, but -- okay. Okay. We got the money. All
24 right. Show me the money.

1 Okay. Willie.

2 MR. LOCKERETZ: Concerning tomorrow's schedule,
3 this record is only one hour for public comment?

4 MR. CARTER: We will continue the public
5 comment as long as people want to weigh in with public
6 comment. Okay.

7 MR. LOCKERETZ: But that means other business
8 could be pushed to after the adjournment --

9 MR. CARTER: Okay.

10 MR. LOCKERETZ: Not okay, because we have
11 planes to catch.

12 MR. CARTER: Okay. Are there other items then
13 that need to come onto the agenda tomorrow?

14 MR. LOCKERETZ: Some votes.

15 MR. CARTER: Yes. Some votes. Well, we will
16 bring up the poultry first. That will come on -- if we're
17 ready to go with the recommendation, that will come up for
18 a vote first thing tomorrow. Okay.

19 MR. SIEMON: Could I request the livestock
20 committee sit for a minute after --

21 MR. CARTER: If the livestock committee would
22 sit for a minute, okay, after we recess.

23 Okay. By golly, it's five o'clock.

24 Okay. Carolyn.

1 MS. BRICKERY: Could you just review the agenda
2 for tomorrow so we know what's --

3 MR. CARTER: Okay. The agenda for tomorrow is
4 that we will come in, we will -- if there is a written
5 report from the livestock committee, come back with the
6 poultry access to pasture. Okay.

7 Then we will move into a review of committee
8 work plans. Then promptly at ten o'clock, we will begin
9 public comment, which public comment will continue on as
10 long as we have public commentators. And then other
11 business.

12 Now, if there's other business that needs to be
13 taken care of before people leave to catch a plane, I
14 would request or entertain any requests that we do that
15 before the public comment.

16 Okay. Everybody understand?

17 MS. CAUGHLAN: What if we kicked everything at
18 least a half-hour earlier? What if we started at 7:30?

19 Oh, stop it. Don't wimp. Like we don't
20 anyway.

21 MR. CARTER: Okay. We were -- you know, we
22 were encouraged to be here or authorized to be here until
23 Thursday so, you know, we need to factor that in on the
24 meetings. And again, my admonishment is September, pack

1 an extra pair of underwear. Okay?

2 Okay. We are recessed, except for the
3 livestock committee.

4 (Whereupon, at 5:00 p.m., the hearing was
5 recessed.)

C E R T I F I C A T E

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IN RE: National Organic Standards Board
LOCATION: Austin, Texas
DATE: May 7, 2002

I do hereby certify that the foregoing pages,
numbers 1 through 695, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Penny Bynum before the
U.S. Department of Agriculture National Organic Standards
Board.

(Transcriber) 6/12/2002

(Date)