

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS

BOARD MEETING

+ + + + +

MONDAY,

OCTOBER 15, 2001

+ + + + +

The Board met in the South Building Cafeteria, 12th Street and Independence Avenue, S.W., Washington, D.C., at 8:00 a.m., Carolyn Brickey, Chairperson, presiding.

PRESENT:

CAROLYN BRICKEY, Chairperson

RICHARD H. MATHEWS, Program Manager

OWUSU A. BANDELE

KIM M. BURTON

DAVID CARTER

GOLDIE CAUGHLIN

REBECCA J. GOLDBURG

STEVEN HARPER

MARVIN HOLLEN

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PRESENT: (CONT.)

MARK KING

ROSALIE KOENIG

WILLIAM LOCKERETZ

JAMES RIDDLE

ERIC SIDEMAN

GEORGE SIEMON

WILLIAM WELSH

KATHERINE BENHAM

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

2 (8:36 a.m.)

3 CHAIRPERSON BRICKEY: Okay. Let's get
4 started. I'm told I have to speak up. So that's what
5 I'm doing. You really have a captive audience here
6 because none of us can get out of here. So whatever
7 you want to say, you'll get a chance to say it, but
8 you've got to say it in five minutes because we have a
9 long list. Okay?

10 I want to welcome everyone to the meeting.

11 We very much appreciate your interest in being here
12 and the comments that you're going to make, and we
13 look forward to digesting and thinking about those
14 comments.

15 I want to call the first person forward
16 who is Dirk Ave. Did I get that right? Did I get the
17 name right? Is he here? Hello.

18 (No response.)

19 CHAIRPERSON BRICKEY: All right. How
20 about Hubert Caramon (phonetic)? Five minutes,
21 please, sir.

22 DR. CARAMON: Good morning. Thank you for

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1 letting me be up here and addressing you.

2 I have a paper for each of you.

3 PARTICIPANT: The microphone is only for
4 the court reporter. Everyone will have to please
5 speak up.

6 DR. CARAMON: Okay. My name is Hubert
7 Caramon. I'm a dairy veterinarian from Lancaster
8 County, Pennsylvania.

9 I graduated from the University of New
10 Hampshire in 1984 with a degree in soil science and
11 resource economics, and I graduated from the
12 University of Pennsylvania School of Veterinary
13 Medicine in 1995.

14 I've been a herdsman on conventional and
15 organic biodynamic farms for about six years now, and
16 I've been a veterinarian for the past six years
17 specializing in working with ecologically-minded dairy
18 farmers in Lancaster County.

19 I'm an active member of the Pennsylvania
20 Certified Organic PCO for the past four years, and I
21 sit on their standards and certification committee.

22 I was on the American Veterinary Medical

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1 Association's Task Force for Complementary and
2 Alternative Veterinary Medicine until its completion
3 last year, and I've also been on the Advisory Council
4 and Review Panel of OMRI and have participated in five
5 TAP reviews.

6 I actively use homeopathy, phytotherapy,
7 and acupuncture, as well as normal conventional
8 medicine and surgery in my practice.

9 I come here as a dairy practitioner who
10 spends most of my days out with the cows and with the
11 farmers. I know what it's like to be out in the
12 trenches at night. I try to bring a practical
13 perspective to my talk here, as well as in my paper,
14 and I'm truly glad there is a national organic program
15 rule out there because it helps industry professionals
16 like myself know what kind of rules we're playing by,
17 instead of the fragmented system with all of the
18 private certifiers.

19 My main point here today is to raise the
20 issue of appropriate medications for livestock on
21 USDA-certified organic farms. As it stands now, there
22 are very few synthetic medications allowed to be used

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1 that do not render an animal useless for future use.

2 I think there's about three if I counted
3 them up. There's lidocaine, aspirin, and electrolyte
4 fluids.

5 It's a fact of life that unforeseen
6 accidents happen on farms no matter how well managed,
7 and in tending to these accidents, veterinarians use
8 or need to use sedatives, analgesics, and intestinal
9 type protectants to relieve pain and suffering.

10 But what I feel needs to be done, and I'm
11 speaking more for other veterinarians that have no
12 idea about complementary and alternative medicines,
13 they only know synthetic medicines, due to standard
14 veterinary schooling, and they have an oath to relieve
15 pain and suffering and hopefully they can do that
16 without automatically rendering an animal useless for
17 future use.

18 If not, you might start seeing
19 veterinarians lodge formal complaints with various
20 authorities or humane societies and whatnot, or you
21 might actually -- worse would be that they start
22 slipping in substances that can't be detected in milk

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1 and meat, but are very usable in livestock. I don't
2 think the organic program really wants to have that
3 happen at all because that would undermine consumer
4 confidence in case that was to be found out that that
5 was happening.

6 Some examples, just to give you an idea of
7 what I see out there are, let's say, cuts and
8 lacerations needing an analgesic to stitch the animal,
9 such as in a dairy cow, since I'm a dairy
10 practitioner. If she cuts her milk vein and she's
11 bleeding out profusely, I'm going to have to give that
12 cow some kind of sedative so I can get near that milk
13 vein to stitch it without getting kicked in the head.

14 Otherwise she'll die from blood loss.

15 Also, if she needs a blood transfusion,
16 which is possible, there are no approved
17 anticoagulants to add to the blood from the donor cow
18 before it goes to the recipient cow.

19 There is certainly accidental ingestion of
20 poisonous substances, whether they're an ewe bush
21 or --

22 PARTICIPANT: Time.

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1 DR. CARAMON: Time? Okay.

2 Thank you. Another part is just for
3 Caesarean sections as well.

4 MS. BURTON: Have you ever gotten together
5 with other veterinarians and actually looked at the
6 list of approved materials and come up with petitions
7 or are you guys going to be considering petitioning
8 materials for the next list?

9 DR. CARAMON: I speak for myself. I have
10 gotten my paper reviewed by the American Association
11 of Bovine Practitioners. I probably would go to them
12 and ask their Welfare Committee to have an official
13 platform.

14 MS. BURTON: Because if we could actually
15 see some of the materials that you're talking about
16 before we get petitions for them --

17 DR. CARAMON: Yes. There's a dozen
18 materials in the back of my paper.

19 MS. BURTON: Okay.

20 DR. CARAMON: With justifications. Okay?

21 Yes, thank you, and I have a paper for
22 everybody if they want.

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1 CHAIRPERSON BRICKEY: Thank you.

2 Our next speaker is Meredith Sandler.

3 MS. SANDLER: Thank you, Madame Chair.

4 First I'd like to give you 150 letters of
5 support for promulgation of standards for wild-product
6 species.

7 CHAIRPERSON BRICKEY: Thank you.

8 MS. SANDLER: My name is Meredith Sandler.
9 I represent the Governor of Alaska here in Washington,
10 D.C., specifically on this issue and others.

11 I met with you a number of times over the
12 past two and a half years. I have appreciated the
13 opportunity to do so.

14 We have provided testimony. We have also
15 worked with the NOP, USDA, NOSB specifically when the
16 USDA worked with cutters to mandate draft standards
17 for wild-product systems by September 2000. We worked
18 with USDA to provide answers to the questions that
19 then Administrator Kathy Meridin (phonetic) had. We
20 provided reams of information for you on management,
21 tracking, a number of things, and we trust, as I see,
22 that you have read that material that we provided for

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1 you.

2 I'd like to go through seven points very
3 quickly that were contained in our July 31st response
4 to the task force recommendations.

5 First of all, we'd like to point out that
6 our management marine system meets the requirements of
7 the definition of organic production as stated in the
8 Act. Not only do we have layers and layers of federal
9 and state agencies that contribute to the effective
10 management of our marine environment, we have a number
11 of nonprofit entities, international organizations
12 that work with us as well.

13 Secondly, pre-organic certification
14 standards for wild aquatic species based on domestic
15 and terrestrial-based standards is in the task force's
16 own words, own words, "impractical." Yet that's what
17 the task force did.

18 It was a very difficult thing to
19 understand why they did that if in their own minds
20 they said it was impractical.

21 The NOSB has several options. Either they
22 can develop unique standards for wild aquatic animals

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1 as allowed in the preamble to the December 2000 final
2 rule or you can use wild crops for guidance and
3 precedence.

4 Third, there are no known legal or
5 advisory limitations of an organic site based on size
6 and nature of the environment. What is key to an
7 organic site is its natural carrying capacity for the
8 species or crop within the site. Without a doubt,
9 you'll not find a more compatible rearing environment
10 for any food item we eat than the natural free-ranging
11 conditions found in our oceans.

12 We are dangerously close to causing great
13 harm to the integrity of the organic program with your
14 continued insistence on hold wild aquatic animal
15 systems to a greater degree of control than you do to
16 other organic systems, including aquaculture.

17 For instance, the task force, in the
18 discussion on living conditions, said that wild
19 aquatic species do not meet livestock requirements
20 because one must establish a distinct, defined space
21 that provides livestock with appropriate shelter and
22 mobility and protects them from the prohibitive

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1 practice and inputs that are there.

2 On the other hand, the task force said
3 that for aquaculture the prohibition on contact with
4 prohibitive substance, particularly those that are not
5 intentionally introduced, contains some allowance for
6 generally unavoidable and incidental contact. We find
7 that this notion is arbitrary. There's one standard
8 for aquaculture. There's another standard for wild
9 aquatic species. You cannot hold wild aquatic species
10 to a higher standard.

11 There appears to be nothing in federal law
12 or advisory actions that prohibits either more than
13 one organic producer or the involvement or influence
14 of government management in supporting organic
15 production system, if the task force continually
16 referred to wild aquatic producers their inability to
17 adequately provide for species in the water. It's a
18 system. There are many entities involved in the
19 management of the oceans. It's a different system
20 than a terrestrial-based production system.

21 Yet the task force didn't allow itself to
22 think in that wider nature.

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1 Six, the task force has demonstrated an
2 inability to go beyond what we term as an invasive
3 production system to a somewhat different protected
4 system. The invasive model has been the prevalent
5 management regime.

6 However, a protective system, because it
7 promotes biodiversity, because it maintains ecological
8 harmony throughout federal advisory definitions for
9 other organic production that fit within those
10 definitions, that means a protective system can also
11 meet the intent of organic systems.

12 I just would like to sum. One, water
13 bodies are appropriate organic sites.

14 Two, size is determined by how functional
15 an organic site is as it relates to organisms within
16 the site.

17 Three, control is a misused concept. What
18 is most important to an organic operation is the
19 degree of management.

20 Next, government participation in organic
21 planning is not only appropriate, but advantageous to
22 the consumer. Protective management systems comply

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1 completely with the Act and natural systems, as
2 identified by wild crop standards in the Act, are
3 appropriate for organic certification.

4 And, lastly, as we've said over and over
5 and over to the question of how do you know where the
6 fish are, wild aquatic animal ranges are
7 determinable. In fact, they are determined. We've
8 given you tracking information that show where the
9 fish go and that equates with wild crops.

10 We appreciate the opportunity to present
11 information to you, and we hope you'll consider the
12 reams of material. We don't believe the task force's
13 recommendations are accurate. We feel that we've
14 reviewed them fairly specifically in our comments, and
15 we hope you would take a close look and act with those
16 in mind.

17 Thank you very, very much.

18 CHAIRPERSON BRICKEY: Meredith, will there
19 be an opportunity to get those comments you just gave
20 us in writing?

21 MS. SANDLER: Yes. I can clean them up.
22 I kind of gave you a third of what I was going to say.

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1 So I can do that later, by tomorrow morning maybe.
2 Or when would you like them?

3 CHAIRPERSON BRICKEY: As soon as possible.

4 MS. SANDLER: Okay.

5 CHAIRPERSON BRICKEY: I appreciate that.

6 Secondly, we have received, as you may
7 know, several communications in the last few days.
8 The Board may not be up to speed on all of those,
9 including letters from some senators asking us to
10 delay our decision, and I'm wondering where the
11 Governor of Alaska is on that question.

12 MS. SANDLER: The Governor of Alaska asks
13 you to make a decision. You have had two and a half
14 years to make a decision. You've been mandated by
15 Congress to make a decision more than a year ago. We
16 would like you to make a decision.

17 Thank you.

18 CHAIRPERSON BRICKEY: Thank you.

19 Tom Hutchinson?

20 MR. HUTCHINSON: Good morning. Again, the
21 Organic Trade Association has been very pleased to be
22 able to comment on a variety of items the National

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1 Organic Standards Board has taken up for possible
2 recommendation. OTA commends the OSB for employing
3 such an open, participatory process, especially
4 through its enhanced web page.

5 One slight amendment to the process would
6 give OTA even more pleasure in participation, to allow
7 a 45-day comment period instead of a 30-day comment
8 period, a position OTA first voiced at the public
9 comment period at the end of the last NOSB meeting.

10 OTA itself employs an unusually
11 participatory process. OTA's Quality Assurance
12 Committee is charged with reviewing organic standards
13 and is comprised of the chairs of 11 subcommittees
14 which represent the various sectors of the organic
15 industry.

16 It can take some time for all of the
17 interested subcommittees to schedule and complete the
18 necessary conference calls, and there has been at
19 least one instance of an item being referred back to
20 subcommittees after the Quality Assurance Committee
21 discovered a potentially novel consequence of adopting
22 a policy.

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1 OTA would like to reiterate its opposition
2 to requiring certification for distribution and retail
3 operations handling what the draft proposal calls
4 impermeable containers. The Distribution Subcommittee
5 of OTA's Quality Assurance Committee tried over the
6 course of an entire year to define impermeable but was
7 unable to agree on a satisfactory definition. No
8 definition is offered as part of the proposal, and
9 given the fact that distributors and retainers are
10 already required to prevent commingling and
11 contamination, OTA believes this change not only to be
12 unnecessary, but to add a potentially very heavy
13 burden on distributors and retailers.

14 OTA has received well over 100 responses
15 to a questionnaire about pasture practices but has not
16 yet completed the data analysis. Seventy-five percent
17 of the responses were from four states: Maine,
18 Vermont, New York, and Pennsylvania, all of which
19 require access to pasture.

20 Preliminary data indicate that well over
21 half of organic dairy farmers feed their cows between
22 30 to 50 percent pasture grass. Fifteen percent of

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1 organic dairy farmers allow between 20 and 30 percent
2 pasture, and ten percent allow less than ten percent
3 pasture. Rather than "allow," read "provide access
4 to." Sorry.

5 Of those who pasture their cows,
6 significantly the range in summer varies between 50
7 and 100 percent pasture grass. There is some
8 variation by age and whether a dairy cow is dry or
9 lactating. OTA will continue to work on analyzing the
10 data and make a report publicly available when it's
11 completed.

12 OTA would also like to inform NOSB that we
13 are working with USDA's Natural Resource Conservation
14 Service on an outreach program to organic producers.
15 NOSB members are welcome to work with OTA
16 collaborating on the NRCS program. Please contact me
17 at the office for more information.

18 OTA supports NOSB's intention to appoint a
19 peer review panel soon enough so that the peer review
20 panel may lend NOP appropriate technical support in
21 the development and implementation of NOP's
22 accreditation program.

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1 OTA is concerned that at least one
2 certifier may have been treated differently from
3 others by requiring them to change their bylaws before
4 applying for accreditation, while others have been
5 told to apply even though changes have not been made.

6 OTA urges NOSB to recommend to NOP that
7 NOP address any perceived unfairness through a written
8 statement.

9 In addition, when considering the effect
10 of certified requirements, OTA requests that NOSB
11 recommend to NOP that NOP consider the number of
12 certified operations affected by a decision, as well
13 as the number of certifiers affected.

14 OTA also requests NOSB to recommend to NOP
15 that not-for-profit organizations be permitted to
16 receive and distribute donations for charitable and
17 educational purposes, which are separate programs
18 housed in the same organization.

19 OTA strongly urges NOSB to recommend to
20 NOP that the quality system manual for program
21 accreditation be written as required by ISO-61 to
22 obviate inconsistent decisions.

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1 OTA is concerned that NOP has not ruled
2 yet on the technical correction regarding
3 certification of final labelers and urges NOSB to
4 continue advocating this change which OTA believes is
5 simply clarifying the intent of the Organic Food
6 Production Act.

7 OTA has learned recently that the
8 (speaking French) de Quebec has come up with a couple
9 of items which tighten this very issue, and we will
10 have copies of that document for you later today.

11 CHAIRPERSON BRICKEY: I didn't get this
12 exactly. Other than the survey that you're doing on
13 access to pasture, do you have a specific
14 recommendation from OTA for us about our proposal?

15 MR. HUTCHINSON: Not at this time.

16 PARTICIPANT: You all didn't send anyone
17 to the council meeting.

18 MR. HUTCHINSON: Well, we've commented
19 previously.

20 CHAIRPERSON BRICKEY: Do you have a
21 specific recommendation for us so that we know what it
22 is?

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1 MR. SIDEMAN: A comment on what they offer
2 now for comment.

3 PARTICIPANT: That was sent earlier.

4 MR. HUTCHINSON: I don't think we have
5 anything different from anything we've sent in before.

6 MR. RIDDLE: No change in position.

7 MR. HUTCHINSON: No.

8 MR. RIDDLE: You've already commented on
9 it.

10 MR. CARTER: Tom, can you just repeat the
11 responses you got back, the percentages?

12 MR. HUTCHINSON: Again, this was over 100
13 responses. Seventy-five percent of them were from
14 four states that do require access to pasture. Well
15 over half of organic dairy farmers feed their cattle
16 between 30 and 50 percent pasture grass. Fifteen
17 percent of organic dairy farmers allow between --
18 provide for at least 20 to 30 percent pasture. Ten
19 percent provide less than ten percent pasture.

20 MR. LOCKERETZ: Tom, you briefly mentioned
21 something about the final labeling change. Are you
22 referring to the item that is, in fact, out to public

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1 comment in the accreditations meeting or were you
2 referring to something else?

3 MR. HUTCHINSON: We had raised the issue.

4 Jim, do you know? Is that the same part
5 of labeling?

6 PARTICIPANT: Yes.

7 MR. HUTCHINSON: Basically that we had
8 proposed before? Yes, yes.

9 MR. RIDDLE: The application was approved
10 by the Board at the June meeting as a technical
11 correction.

12 MR. HUTCHINSON: Yes. We believe that
13 this is a technical correction because it is simply
14 clarifying the intent of the Organic Foods Production
15 Act.

16 MR. LOCKERETZ: So it's the item that, in
17 fact, was proposed for public comment?

18 MR. RIDDLE: Yeah, that's true. I'm
19 sorry. I'm confused. It was not treated as a
20 technical correction. It would be substantive, but
21 the Accreditation Committee has endorsed it, and there
22 have been --

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1 MR. LOCKERETZ: And we will vote on it.

2 MR. RIDDLE: And it will be voted on at
3 this meeting. I'm sorry.

4 MR. LOCKERETZ: We received your
5 endorsement of that proposal.

6 MR. RIDDLE: Right.

7 MR. HUTCHINSON: Yes.

8 MR. LOCKERETZ: Okay. I wanted to make
9 sure we're talking about the same thing.

10 MR. HUTCHINSON: Yes.

11 CHAIRPERSON BRICKEY: All right. Thank
12 you.

13 Anna Stemati?

14 PARTICIPANT: Do you have copies of your
15 remarks today?

16 MR. HUTCHINSON: Yes. I will make more.

17 CHAIRPERSON BRICKEY: Go right ahead.

18 MS. STEMATI: I'd like to say good morning
19 to NOP Board and to participants.

20 I am Dr. Anna Stemati. I'm on a
21 fellowship with a State Department program, and I am
22 here during four months with the National Organic

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1 Program.

2 I tried to study the experience of the
3 organic agriculture, system of agriculture in the
4 United States because my target will be, when I return
5 home, is to develop a national action plan for organic
6 agriculture for my country.

7 So, first of all, excuse me for my
8 English. Maybe I do some mistakes. So I try to speak
9 very, very carefully and without any mistakes.

10 Our country is very small. We have just
11 only two markets, one in the former republics of the
12 Soviet Union. Today the situation is that we are
13 divided into two parts, and the part which we contact
14 is almost the greater part.

15 When the Soviet Union was ruined, we lost
16 all of our markets and we lost links with the other
17 republics. So we lost all, and today the situation is
18 that we need to urgently and very insistently begin
19 something because the situation is very dramatic in
20 our republic.

21 Three years ago our farmers became the
22 owners of the land, and no more. So they're the

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1 owners, no equipment, no sum of money for seeds, no
2 opportunities to buy something, equipment, maybe
3 training, and so on and so on.

4 We tried to organize something and to
5 promote them, to facilitate them by some of the rules
6 adopted through the government. One of these was the
7 special -- we operate the conception for development
8 of ecological agriculture. The name in Europe is
9 ecologically pure products or ecological agriculture,
10 but it's the same.

11 So the special conception for development
12 of organic agriculture, producing and trading of these
13 products. This was one year ago.

14 Just now we are in the development process
15 of deliberation of some measures for the national
16 action plan, what to do. Because our farmers don't
17 know what to do today. They are out in a hole, and
18 they are just single with just a very little piece of
19 the land and no more. So they try to organize
20 themselves. They tried to -- we tried to facilitate
21 them for the legislative issues and so on.

22 So we need any kind of information. First

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1 of all, the legislative features. Being here I read
2 and I try to learn your rules that you operate in the
3 National Organic Program. They are wonderful. It's
4 without any comments.

5 So it's a big experience that you tried to
6 do and that you tried to put on the paper and to
7 operate this paper.

8 Then we need your understanding of the
9 process of certification, accreditation, of promotion
10 of your products because we have nothing.

11 Then the financing of this process, too.
12 Some countries are coming in my country and trying to
13 organize on common projects. It's too difficult to do
14 because government sometimes cannot provide it with
15 some assurance. Here, NOB does.

16 So, being here, I just tried to say that
17 sometimes just a simple discussion with you is very
18 helpful for me because I collect every information. I
19 am like a -- I don't know how to say it in English.

20 PARTICIPANT: A sponge.

21 MS. STEMATI: Yes.

22 (Laughter.)

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1 MS. STEMATI: Just to collect all this and
2 then try to organize something in my country. So I'd
3 very much appreciate it if during this meeting you
4 will approach me and say, "Anna, just one moment. I
5 want to speak with you. Maybe I will help you with
6 something, maybe one idea." It may be one meeting; it
7 may be one discussion.

8 So thank you very much, and God bless you.

9 PARTICIPANTS: Thank you.

10 CHAIRPERSON BRICKEY: Bob Yanda.

11 MR. MEEKER: My name is actually Floyd B.
12 Meeker. We petitioned for two spots, and we actually
13 -- they put us down as one.

14 My company, Meeker Farms, Inc. processes a
15 product called BioCal, and we petitioned the NOSB for
16 approval of calcium oxide and calcium hydroxide.

17 And I just wanted to let the Board know
18 that this product has been in use since 1984. It was
19 not allowed starting in 1998 for organic production,
20 but prior to that it had been used widely by quite a
21 few farmers, and if any of you have any questions
22 about calcium oxide or calcium hydroxide in the

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1 process, I can help you with that.

2 MS. BURTON: We have received both of
3 those TAP petitions, and then they're going to be
4 reviewed at our next meeting, just for the Board's
5 information.

6 MR. BANDELE: I didn't have a question on
7 the formulations, but I did have one question on the
8 BioCal.

9 MR. MEEKER: Yes.

10 MR. BANDELE: Are there any other
11 ingredients in the BioCal that have not been covered
12 by the CAO and calcium oxide and calcium hydroxide?

13 MR. MEEKER: Calcium oxide and calcium
14 hydroxide are the only two that are questionable.
15 Everything else is approved.

16 MR. BANDELE: So in other words, if those
17 would be approved, then BioCal would be approved.

18 MR. MEEKER: That's correct. That's my
19 understanding.

20 MR. BANDELE: Okay.

21 MR. YANDA: Good morning. My name is Bob
22 Yanda.

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1 I just want to give you a little overview
2 and kind of follow-up of what Butch was talking about,
3 calcium oxides, calcium hydroxides. I'm going to be
4 talking about BioCal as a product.

5 I grew up on a dairy farm in eastern Iowa.
6 I've been involved with dairy cows and forage
7 production my whole life.

8 I got out of high school, went to Iowa
9 State University, got my degree in dairy science, but
10 I tell people don't hold that against me. And I guess
11 the reason I say that -- I don't want to put college
12 down. College was good for me. It taught me to be
13 inquisitive, maybe ask some questions and some other
14 things.

15 And when I got out of college and got back
16 to the farm and then eventually got involved in the
17 consulting and the nutrition business with Midwestern
18 Bio-Ag for the last 14 years, what I found I guess has
19 been intriguing and exciting to me, how we can change
20 the mineral level in plants, the minerals and the
21 energy and the sugar level by the way that we
22 fertilize, and that comes with the type of products

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1 that we use, and mainly I'm talking about the BioCal.

2 Cattle, dairy cows, any ruminant, they're
3 ruminants. They're designed to digest high-quality
4 forage, and when that farmer grows that high quality
5 forage, it's mineralized, energized. Now they are
6 actually purchasing less off-farm protein, less
7 minerals. It's bottom line profitability, and it's
8 amazing what happens on the dairy farms that we're
9 working with.

10 One of the unique things that we see is
11 minerals in a plant are in a colloidal form, and their
12 availability to that animal is probably two to four
13 times higher than minerals we would buy out of a bag
14 and feed to an animal.

15 So the overall health and immune system,
16 everything, it's nature's natural flow. It's a
17 process that was put in place, and we're just
18 promoting that and enhancing it, and it's exciting,
19 what's happening out on the farms.

20 So if you've got any questions on that.

21 CHAIRPERSON BRICKEY: Thank you.

22 I'd like to go to Michael Slye.

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1 MR. SLYE: I requested a later time.

2 CHAIRPERSON BRICKEY: You want -- okay,
3 sure. No problem.

4 MR. SLYE: Later this afternoon.

5 CHAIRPERSON BRICKEY: Gail Mason.

6 MS. MASON: Good morning. How are you all
7 doing? My name is Gail Mason. I'm with the U.S.
8 Department of Agriculture, Agricultural Marketing
9 Service, Poultry Programs.

10 I am only here to attend the meeting for
11 informational source. If you may have questions as
12 relates to the processing insurance, I don't have a
13 particular issue to bring up other than to just be
14 here as a source of information. And I'll be in and
15 out of the meeting.

16 CHAIRPERSON BRICKEY: All right. Thank
17 you.

18 MS. MASON: Thank you.

19 CHAIRPERSON BRICKEY: Grant and Homer
20 Lundberg.

21 MR. H. LUNDBERG: Good morning. My name
22 is Homer Lundberg, and I'm here to speak in favor of

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1 the petition for the use of copper sulfate in the
2 production of organic rice for the control of algae
3 and tadpole shrimp.

4 You should have in front of you a folder
5 like this with all of the testimony included.

6 I live in Richfield, California, and I've
7 been a rice farmer for over 40 years. My brothers,
8 following the pattern of our father, have always
9 farmed with a high respect for conservation and the
10 environment.

11 So when organic farm prac principles were
12 introduced to us about 30 years ago, it was a very
13 reasonable transition to apply those standards to our
14 farming practices.

15 In those 30 years, we have operated what
16 we like to call a 1,000 acre experimental farm in that
17 we are continuously searching for cultural methods
18 that will enhance the rice drop and impede the weeds
19 and pests that are an impediment to that crop.

20 We have in those years achieved many
21 breakthroughs. We've also had some really colossal
22 failures. Experience they say is what you get when

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1 you're really looking for something else.

2 One of the things that has made itself
3 abundantly clear is the fact that there is no silver
4 bullet. There is no one cultural method that can be
5 used year in and year out successfully. Weeds and
6 insect pests adapt to a system, too. So it is
7 necessary to vary the cultural procedures constantly.

8 About the time you think you have a system
9 that controls aquatic weeds, the upland weeds become
10 intolerable, and then when the upland weeds are under
11 control, the aquatics make their unwelcome return.

12 All of the suggestions in the TAP report
13 for alternatives to copper sulfate are either in use
14 on our farm or have been tried and found to be
15 ineffective. The fact that there are alternatives to
16 the use of copper sulfate in cultural conditions means
17 that we can get by most years without the use of
18 copper sulfate, but when the conditions arise that
19 make it necessary, it is a crucial material to save
20 that crop.

21 And saving an organic crop that is other
22 than the untimely appearance of tadpole shrimp or

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1 algae has great potential to produce tons of high
2 quality food is imperative, and organic crop failure
3 serves no one.

4 I refer to the untimely appearance of
5 tadpole shrimp and algae, and that's exactly what it
6 is because under normal weather conditions, the rice
7 is usually past the vulnerable stage before shrimp or
8 algae appear, but if it is a late spring or an
9 untimely high pressure area causes the weather to be
10 very hot at planting time, the shrimp will hatch
11 before the rice sprouts, show green, and become
12 flexible.

13 At that time the shrimp can break off the
14 sprout, and the plant is dead. Also in those
15 conditions the algae can grow very rapidly and cover
16 the surface of the water, and the rice cannot push its
17 way through. Either of these conditions will cause a
18 crop failure.

19 Under more normal conditions the
20 appearance of shrimp or algae is of little concern,
21 and in some cases beneficial. The TAP review is well
22 done as far as it goes, but it stops too soon. The

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1 major thing I found lacking in it is a perspective
2 that can be gained only from years of actual farming
3 experience.

4 One of the important things of a
5 successful farm, organic farming operation is the
6 ability to separate fact from wishful thinking. I've
7 been trapped in that condition myself. It is my
8 strong conviction, generated by the evidence as well
9 as 40 years of rice growing experience that the use of
10 copper sulfate to rescue an organic rice crop is
11 justified.

12 While I would not build my case on the
13 fact that other producers of organic crops are able to
14 use it on a regular basis and in higher quantities
15 than we are requesting, it would seem highly
16 incongruous that under those conditions you prohibit
17 us from using it in emergency situations.

18 In conclusion, I respectfully request that
19 the National Organic Standards Board support the use
20 of copper sulfate as an approved synthetic material
21 for controlling algae and invertebrates in organic
22 rice production.

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1 Thank you very much.

2 Yes?

3 MR. BANDELE: In your 40 years of
4 experience, how many times roughly did you have to
5 resort to the use of copper sulfate?

6 MR. HOMER LUNDBERG: I would say we need
7 to use it on maybe one or two of our ten fields every
8 third year or something like that, but then you may
9 get two years in a row when it's terrible. So it's
10 very unpredictable, but it's not being used on a
11 regular basis.

12 MR. SIDEMAN: I was wondering if you would
13 explain where the water goes when you drain the rice
14 field.

15 MR. HOMER LUNDBERG: The water is held on
16 rice for like 100 days, and this would be in the first
17 20 days, and so it's held there for the next 100 days,
18 and in that time a great deal of aquatics grow in the
19 water, and so we try not to drain very much water at
20 all. We let the crop use it up, but if any is
21 drained, it's many times drained to other fields or it
22 goes into the drainage ditches and creeks.

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1 MR. SIDEMAN: And the drainage ditches and
2 creeks then go to?

3 MR. HOMER LUNDBERG: Well, yeah. They'll
4 finally end up, I guess, in the bay, but we've never
5 had a fish kill or anything of that nature attributed
6 to copper sulfate.

7 MR. SIDEMAN: And how much water is
8 actually put on the field?

9 MR. HOMER LUNDBERG: It's usually around
10 six inches.

11 MR. SIDEMAN: And then when you drain it's
12 how deep?

13 MR. HOMER LUNDBERG: Well, sometimes it
14 gets right down to almost nothing.

15 MR. LOCKERETZ: When you said about one or
16 two out of ten fields typically get it every third
17 year, does it tend to be the same fields that need it
18 or is it kind of randomly distributed?

19 MR. HOMER LUNDBERG: It's random because
20 it's more dependent upon the weather situation, and
21 that's so unpredictable. If we have a hot spell that
22 causes the problem, we have to use it, if that rice is

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1 in a really critical position, but if something was
2 planted two weeks earlier, it's at a stage where it's
3 past that vulnerable thing. So it's so unpredictable.

4 MR. LOCKERETZ: But as far as which fields
5 get it differently in a given year, do you have
6 certain problem fields that need it more often or is
7 it --

8 MR. HOMER LUNDBERG: It's really random.

9 MR. LOCKERETZ: Okay. Thank you.

10 MR. HOMER LUNDBERG: Yeah.

11 MS. KOENIG: Do you know in other regions
12 if they have similar problems and how they deal with
13 it and where the --

14 MR. HOMER LUNDBERG: As far as organic
15 rice is concerned?

16 MS. KOENIG: Or potentially organic
17 operations. If it doesn't exist now or say began or
18 such where it might be in areas where there's other --

19 MR. HOMER LUNDBERG: It has -- it has
20 always been approved for use, and so in other areas
21 that suffer the same problem, they too are dependent
22 on copper sulfate as an emergency situation. If it

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1 becomes outlawed, organic rice production is going to
2 be so risky that I don't know what the future of it
3 might be.

4 It would be different if organic rice
5 production was a wide margin operation and you could
6 stand a crop failure every so often. Unfortunately
7 it's a very narrow margin operation, and we can't.

8 MR. SIDEMAN: One more question. Who is
9 your certifier?

10 MR. HOMER LUNDBERG: C.C. Oil.

11 CHAIRPERSON BRICKEY: Okay. We have three
12 more speakers on this same topic coming up. So I
13 would ask those speakers if you can add something to
14 the discussion, but let's not repeat where we've been.
15 Okay?

16 MR. HOMER LUNDBERG: Thank you very much.

17 CHAIRPERSON BRICKEY: Gordon Brewster.

18 MR. BREWSTER: Good morning. I'm glad to
19 be here. My name is Gordon Brewster. I've been
20 associated with the rice industry and the production
21 since 1965, shortly after graduating in agronomy from
22 California State University at Chico.

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1 I have been involved with a number of
2 family farms since 1980; SVP for agriculture,
3 primarily overseeing approximately five to 7,000 acres
4 of organic rice production annually.

5 And I will heed your message.

6 CHAIRPERSON BRICKEY: Thank you.

7 MR. BREWSTER: I would like to add a
8 little more detail to what Homer said. Organic rice
9 in California in excess of 90 percent is water seeded.

10 The seed is soaked 48 hours prior to seeding, and
11 while the seed is being soaked, the field is being
12 flooded.

13 It takes approximately three to five days
14 to flood an average field with water approximately six
15 to eight inches deep. That's how we like to seed.

16 During the process of this field being
17 flooded, like I said, three to five days, tadpole
18 shrimp, which I'm here to address, hatches in two
19 days. So basically by the time the field is flooded
20 and it's ready to be seeded by air after 48 hours of
21 soaking the seed, the airplanes fly the seed on, and
22 the seed is already developed in very small -- we call

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1 it -- it's a sprout, and the sprout grows very rapidly
2 after it's seeded because it's immersed in water.

3 The tadpole shrimp hatch after two days.
4 So they're there when the seed is starting to sprout,
5 and when it sprouts, this little white, succulent
6 sprout is extremely attractive to tadpole shrimp.
7 It's kind of like a caviar. It's extremely
8 attractive.

9 And that attraction stays there for about
10 four days, five days. It depends on weather. Homer
11 made reference to weather. California's weather is
12 very variable. If the weather is cool, then tadpole
13 shrimp are slowed with the rice. As soon as the
14 weather warms up, the rice and tadpole shrimp take off
15 together.

16 After about approximately seven days, the
17 tad or the rice transforms into a chlorophyll. The
18 little white shoot is no longer caviar.

19 When that happens, that aspect of the
20 problem is over with, but in order to control the
21 tadpole shrimp, ten pounds of bluestone customarily
22 are used when needed, when needed. I want to

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1 emphasize that point, and there's various things that
2 cause when needed.

3 The main thing is high temperatures when
4 the seedling is in that stage, and that will control
5 the tadpole shrimp for a matter of a few days until
6 the rice seedling transforms into chlorophyll and
7 becomes not attractive.

8 So I want to continue on to the real
9 critical part of what we're talking about here. There
10 is another way to control tadpole shrimp, and that is
11 by draining the field. It's not as effective, but it
12 will control tadpole shrimp.

13 The problem with this is, and it's a
14 catastrophic problem, is that when the water comes
15 down to ground level and atmospheric oxygen is exposed
16 to the seedling, there's just a terrible weed in
17 California, a grass called wire grass. Maybe you've
18 heard of it.

19 And after that, the grass that has
20 sprouted, is exposed to atmospheric oxygen, it
21 generates a secondary root system. Now, when it first
22 sprouts and it's not exposed to oxygen, it's in what

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1 we call its primary root system.

2 Now, when it develops this secondary root
3 system after it's exposed to atmospheric oxygen, the
4 game is over. The fight is lost.

5 The reason we use copper sulfate is that
6 we can maintain the water level, and if you can
7 maintain the water level, as the water grass is
8 coming, water grass will not generate a secondary root
9 system, and when that happens, the water grass will
10 not be able to make it through the water depth, and
11 the rice can.

12 If you let it generate a secondary root
13 system, then the water grass can come through 12 to 15
14 inches of water as opposed to the rice, which can only
15 come through six to eight inches of water.

16 I guess you're about to shut me off,
17 right?

18 MR. RIDDLE: Not yet.

19 MR. BREWSTER: Oh, okay.

20 MR. RIDDLE: I'll give you one minute.

21 MR. BREWSTER: Oh, okay.

22 MR. RIDDLE: You still have 30 second.

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1 MR. BREWSTER: Okay. That basically is
2 what I have to say. Yes?

3 MR. RIDDLE: Question. I've done some
4 inspection work in Japan.

5 MR. BREWSTER: Yes.

6 MR. RIDDLE: And I didn't encounter
7 organic rice producers there using copper sulphate.

8 MR. BREWSTER: Well, there's several
9 reasons. First of all, I'm not sure there are even
10 organic rice producers there, but there are at a very
11 minimal --

12 MR. RIDDLE: Yeah, there's producers.

13 MR. BREWSTER: And secondly, they
14 transplant rice. If you transplant rice by hand into
15 deep water, then you have no problem with any of the
16 pests I'm talking about. The rice is already --

17 MR. RIDDLE: Well, they had mechanical
18 transplanters.

19 MR. BREWSTER: Yeah.

20 MR. RIDDLE: So it could be avoided by use
21 of mechanical transplanters?

22 MR. BREWSTER: Not necessarily in

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1 California's conditions. We have been working with it
2 for a good number of years, and you have to plant the
3 rice into a sort of muddy, moist condition with this
4 transplanter, and you have to hold the water -- I mean
5 hold that condition because of what we call transplant
6 shock. You can't just put deep water back on it. You
7 have to hold this -- just a very damp situation.

8 And then that is catastrophic as far as
9 weeds are concerned in California. Now, I am not
10 familiar with the Japanese, but water depth is the way
11 we control weeds in California.

12 Yes?

13 MS. KOENIG: Can you do modeling with the
14 temperature somewhat, and then do you oversee to
15 compensate for the damage or can you come back and
16 reseed or do you just have a window of opportunity?

17 MR. BREWSTER: Well, all of the things you
18 said. Normally a late April planting will prevent
19 this situation from occurring because the temperatures
20 in California normally don't get that warm until --
21 oh, it varies -- maybe the 5th or the 8th of May, and
22 then we can have higher degree weather.

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1 Cold weather, no problem. Reseeding, yes,
2 but without draining the water or by holding the
3 water, you have a bigger, more aggressive, higher
4 numbers than this test. So that's not a solution.

5 And what was the other question?

6 MS. KOENIG: I just said overseeding
7 initially.

8 MR. BREWSTER: Yeah, we do that. We do
9 that.

10 MS. KOENIG: I mean, it may not be
11 economical.

12 MR. BREWSTER: Or commercial rice is being
13 seeded at 150 pounds to the acre. Organic rice is
14 seeded at 200 to 225 pounds to the acre, and that's
15 part of the reason, a very large part of the reason.

16 But if it's in hot weather or the
17 catastrophic annihilation of a rice crop can happen,
18 and it has happened many, many times. I mean, well,
19 it happens all the time.

20 Yes.

21 MR. BANDELE: How would you -- I know it
22 varies, but how would you assess those two scenarios,

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1 the weed effect on yield on a particular year if you
2 drained as opposed to the loss because of the shrimp?

3 MR. BREWSTER: They're both terminal.
4 Water grass is a plant that gets approximately that
5 high, and it is extremely vegetative. It has great
6 big green heads on it. It totally shades out
7 everything below it.

8 It's a semi-aquatic plant. It will not
9 grow in most conditions, but it will grow around rice
10 fields and it will grow in rice fields.

11 And the other question? The other part of
12 it was what?

13 MR. BANDELE: The comparison of the lowest
14 yield as opposed to the situation with the shrimp. In
15 a problem year how much of your yield would be loss
16 because of the shrimp?

17 MR. BREWSTER: Well, that's a question
18 that varies. You can lose anywhere from half to all
19 of your crop. The shrimp will just wipe it out if the
20 conditions are right, and that's primarily water
21 temperature.

22 And like I say, in California we can get

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1 100 degree days in May, this week, next week. Who
2 knows? But it's just like this, and all you need is
3 about three or less of those 100 degree days, and
4 tadpole shrimp are very, very aggressive.

5 MR. BANDELE: The other question I had in
6 Louisiana I think some of the rice farmers' yield gets
7 crawfish production, too, and how would that be a
8 problem in terms of toxicity to crawfish and also
9 cooper accumulation in crawfish?

10 MR. BREWSTER: You know, there's some
11 testimony coming up behind me that's going to deal
12 with that specific issue.

13 MR. BANDELE: Okay, okay. Then I can wait
14 for that.

15 MR. BREWSTER: Yeah, okay. Thank you very
16 much.

17 MR. BANDELE: Thank you.

18 MR. BREWSTER: Okay. Thank you.

19 MR. SIDEMAN: The next speaker is Gary
20 Simlones.

21 MR. SIMLONES: You have pictures of these
22 panels in that gray book, the leading page, and my

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1 clock is earmarked by the yellow page.

2 Good morning. My name is Gary Simlones,
3 and I'm here to speak in favor of copper sulfate
4 application on rice.

5 I'm a third generation family farmer from
6 Glen County in the Sacramento Valley of California.
7 My family's farm lies in the Sacramento Valley since
8 the early '50s. I've farmed since 1985, and began my
9 organic production in 1993.

10 Currently I farm on 770 acres of
11 certified, CCOS certified organic acreage of which
12 about half is planted with rice, and the other half is
13 in a fallowing sequence where we're rebuilding and
14 replenishing the soil.

15 As has been said, California rice is grown
16 under a permanent flat culture because of the serious
17 aquatic wheat problems we have. In the early seedling
18 development, in the first ten to 15 days, you can have
19 mortality caused by algae bloom which is brought on by
20 the onset of hot weather.

21 Basically what happens is as soon as you
22 flood the ground and you plant the rice, algae starts

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1 forming on the soil-water interface, and that normally
2 would not be too much of a problem, but then with the
3 onset of hot water, that algae lifts off the soil-
4 water interface and floats to the top of the water.

5 And if the rice, the young seedling rice
6 has immersed through that water, then that's a good
7 thing because then it provides you some additional
8 weed control and shading, but if the rice is not
9 through that water yet, then it forms a mat, and it
10 smothers and kills and weakens the seedling.

11 Light applications of copper sulfate, ten,
12 15 pounds per acre will retard; it doesn't kill, but
13 it retards that bloom enough for the rice seedling to
14 get through the water, and then once it gets through
15 the water, the algae continues to bloom. It's not a
16 problem.

17 You mentioned a situation with fish. I
18 have had our local mosquito abatement district come
19 and plant mosquito fish in my organic rice fields as a
20 tool to keep the mosquito population down in our
21 community.

22 Personally, I use light applications of

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1 copper sulfate for stand establishment, but I mandate
2 or I recommend a judicious live use, and I said that
3 that's vital for stand establishment, and what I mean
4 by judicious use, I'm going to take my 2001 planting as
5 an example. Seven hundred and seventy certified acres
6 of that, I applied copper sulfate on 166 acres this
7 year.

8 There were a lot of fields that no copper
9 sulfate was applied because we got seedling emergence
10 before the bloom lifted from the soil surface up to
11 the top of the water.

12 This year I also took a risk and because
13 of this copper sulfate debate, and I decided not to
14 apply copper sulfate after the onset of hot weather.
15 I had the algae lift. I had a tremendous matting. I
16 had a reduction in stand mortality. I ended up
17 having to lower the water in order to try and salvage
18 the remaining stand, and had a tremendous water grass
19 infestation.

20 That field has been harvested. It was a
21 33 percent decrease in the green yield off the field.
22 By the time I got the clean-out with all the wheat

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1 seeds and everything else, it was a 50 percent
2 decrease in yield from the previous season. Okay?
3 And economically that is just unacceptable.

4 Unfortunate that it was only on one site,
5 and a lot of my other sites didn't make it through the
6 water, okay, or we had applied copper sulfate in a
7 timely manner.

8 According to Ray Green, Organic Program
9 Manager for CDFA, approximately 20,000 acres of
10 certified organic rice acreage was listed in 2000.
11 Your findings or decisions on this petition literally
12 hold several organic farming families, rice farming
13 families in California's future in your hand.

14 In closing, 30 years ago I served on a
15 U.S. Navy nuclear submarine, and all our hole
16 penetrations had doubled out protection. One was a
17 main hydraulic valve operated. The other was a vital
18 hydraulic system.

19 That vital hydraulic back-up system was
20 used for safety and survival of the crew in that
21 hostile environment. I believe copper sulfate,
22 judicial, light applications, are a vital system for

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1 the survival of the California rice industry.

2 Thank you.

3 MR. BANDELE: I have a question.

4 MR. SIMLONES: Certainly.

5 MR. BANDELE: Have you found that soil
6 testing -- how often do you test the soil, and have
7 you noted a build-up of copper in the soil?

8 MR. SIMLONES: Our soils ar tested every
9 year that we put production in, and so I'm on
10 approximately a 50-50 planting cycle where part of it
11 is resting. So every other year we do soil analysis
12 tests.

13 I looked at the soil analysis for the last
14 40 years on my operation to try and gauge copper
15 accumulations, and what I found, my copper levels
16 range -- in 1998 were around the mid-nine parts per
17 million in the soil, depending on the field, okay, and
18 they went up to ten the next year. They went down to
19 9.2 instead of 9.4 where they were the year before,
20 and I think they're up around 9.8 or 9.10.

21 The reason for the variability, I believe,
22 is because it's different field sites. When you go

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1 out and pull a soil analysis, it's a random selection
2 when you're going out and you're not going to the
3 exact specific site to try and get a gauge of a
4 representative sample of the soil.

5 So I think some of those changes in levels
6 were just the variability of the soil analysis, but I
7 do not see a great build-up, and I think it's because
8 we don't use it every year. We don't use it on every
9 field.

10 MR. BANDELE: Do you have any fields that
11 you have never used it?

12 MR. SIMLONES: You know, I have some
13 fields that were not in rice production that we got
14 into organic rice production, and the copper levels in
15 those fields when we started were still in the eight
16 and nine parts per million range as a background.

17 CHAIRPERSON BRICKEY: Let's move to the
18 next speaker. Can we not? We've got a long way to
19 go.

20 MR. SIMLONES: Yeah, that's fine.

21 CHAIRPERSON BRICKEY: Thank you.

22 MR. SIMLONES: You're welcome.

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1 CHAIRPERSON BRICKEY: Bryce Lundberg,
2 please.

3 MR. LUNDBERG: My comments are also in
4 this handout. Mine are the green tab.

5 And I am here -- again, my name is Bryce
6 Lundberg -- to support the petition to allow the use
7 of copper sulfate for crop production, algae, and
8 shrimp.

9 I farm with my brother about 1,000 acres
10 of certified organic ground in rice, again, wild rice,
11 barley, wheat, oats, vetch, and I serve on CCOF and
12 OCI Standards Committees, as well as the California
13 Organic Food Advisory Board.

14 It seems like a little bit unusual for me
15 to be here to ask for this approval. This material
16 has been approved by all of our certifiers, the State
17 of California, OMRI up to this time. We have had the
18 ability to use it as an emergency use material up
19 until this time.

20 As you may know, the allowance under OMRI
21 or CCOF or OCIA would indicate that several kinds of
22 copper material would be allowed for a multiple of

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1 uses, including algae, bactericide, fungicide, wood
2 treatment, and when the NOP listing for this material
3 came out, it allowed disease. It allows for using as
4 a soil amendment. It allows for as a parasiticide
5 under 603, under 601 for crop use, under 603 for
6 livestock as a parasiticide, and as a feed additive
7 for livestock, but it does not pull through the
8 allowance for algae and shrimp control, and I don't
9 know where the allowance dropped out.

10 At one point the listing under NOP was
11 broad based, copper sulfate approved. When the NOP
12 rule came out, the algae and shrimp dropped out, and I
13 don't know why or where, but that's why we're here
14 before you today, because it did drop out.

15 So the use for rice is a little out of the
16 ordinary because not that many people grow rice, and
17 so we just want to let you know that we need it for
18 emergency uses just as bad as growers that use it for
19 disease, and our uses generally are intermittent and
20 low rate.

21 I would like to address the soil, copper
22 accumulation in the soil. At the end of my

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1 presentation, I've listed probably 20 soil analyses
2 indicating a range of copper from two parts per
3 million to 13 on two different farms, and it's well
4 below the rate that would be considered a concern.

5 I think in your TAP review the area of
6 concern starts to range from 100 to 1,500 parts per
7 million, where they have the concern in Europe. At
8 1,500 parts per million, I would have a concern, too.

9 At two, ten, it's well below the area of concern.

10 I've seen lots of soil analyses that are
11 beyond that, not in our farm, but in other farms.

12 Relative to fish toxicity, aquatic
13 toxicity, the TAP review indicated there was concern
14 about that, and we have concerns about that as well.

15 I've spoken with several experts in the
16 relationship to this, federal, state, count level, and
17 all of them referenced a regular use of copper sulfate
18 or other forms of copper for the protection of salmon,
19 catfish, and mosquito fish against algae and ick.

20 Copper sulfate can be a concern if used
21 improperly, but used properly, in fact, it's used in
22 fisheries to maintain fish health.

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1 I spoke with the nine counties in
2 California that have agricultural commissioners in
3 charge of rice. None of them in conventional
4 agriculture have ever heard of a fish killed in
5 relationship to the rice industry's use of copper
6 sulfate. It's not a material that they have a high
7 level of concern for.

8 And when I did bring a couple of reports
9 provided to you by a California Fish and Game
10 indicating their use of copper to control algae and
11 hydrilla in California lakes and such.

12 And then I just also mention we have used
13 and tried tons of alternatives. They don't show up in
14 the TAP review because we don't publish our work on a
15 local farm, but we grow barley in rotation. The
16 barley started and remains -- should, if the TAP
17 review is correct, prevent algae. It doesn't.

18 We had a 150 acre catfish farm in the
19 '60s. We put catfish in our fields. They were of no
20 use on these issues. We have transplanting equipment
21 from Japan. Our view is that the transplanting
22 equipment from Japan is used in relationship to high

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1 levels of herbicides.

2 Now, you may have seen them use them on
3 small paddies, but when we use them in organic
4 production on a large scale, the weeds come back as
5 fast as you put the transplant in the ground. It's a
6 weak transplant. It has to go through that shock, and
7 you have to keep low levels of water, and the weeds
8 just bypass it even though you have a rice plant that
9 has a head start.

10 But where transplanting is used, they
11 generally have small paddies and have lots of people
12 working in the paddies for that purpose.

13 PARTICIPANT: Time.

14 MR. LUNDBERG: Okay. Well, I urge you to
15 add these uses. It's not a new material. You already
16 approve it for many purposes under the NOP. We would
17 just ask that you allow us the same benefit that you
18 already allow other organic producers.

19 MR. RIDDLE: Bryce, just one quick
20 question. You mentioned about Europe, and they're on
21 track to prohibit copper sulfate, and I don't know if
22 you export to Europe or not, but are you prepared --

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1 right now until there's equivalency, you've got to
2 meet the standard of the importing country.

3 MR. LUNDBERG: What I tried to determine,
4 Jim, is just because they prohibit copper doesn't mean
5 they don't have disease anymore. So I tried to find
6 out. You know, the Europeans say they're going to
7 prohibit copper, but they haven't told their farmers
8 what they're going to allow as a replacement to
9 copper.

10 In some instances I've heard they would
11 replace it with a material that possibly would be even
12 less compatible with organic production systems than
13 copper.

14 I would just, you know, ask you certainly
15 if you have 1,500 parts per million we should be
16 getting rid of copper, and that should be done right
17 now by the certifiers and the regional areas that have
18 those kind of problems.

19 But if you only have two or five or ten
20 parts per million in your soil, my goodness, we
21 haven't abused that material and don't have the
22 problems the Europeans have.

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1 But if they make that, I think a ton of
2 producers in the United States will have that problem,
3 not just us. I mean, copper is a material that's used
4 much more prevalently by growers other than rice
5 growers.

6 MR. RIDDLE: It's a bigger train wreck
7 that we're headed to.

8 MR. LUNDBERG: Exactly.

9 MR. SIDEMAN: Bryce, can you see me during
10 one of the breaks?

11 MR. LUNDBERG: Sure.

12 CHAIRPERSON BRICKEY: Dr. Klopp, we need
13 to move on. We've got so many.

14 MR. LUNDBERG: Would you like these?

15 MS. KOENIG: Let me just ask this very
16 quickly.

17 CHAIRPERSON BRICKEY: All right.

18 MS. KOENIG: You spoke more about the
19 water. I'm more concerned about the reasons that Pat
20 reviewed, to be honest about watershed problems.

21 MR. LUNDBERG: You know, one thing I would
22 like to mention. Snails, frogs, and snakes life in

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1 fields that you already approve this material. I
2 think the only items that -- they live in orchards.
3 They live in vineyards. They live in tomato fields.
4 This material is being used there.

5 MS. KOENIG: But I have a question for you
6 though. Is it feasible; are there ways of monitoring
7 the water as it perhaps leaves your fields, and use
8 that within a special annotation as far as, you
9 know -- I guess that's the greatest concern.

10 MR. LUNDBERG: Sure. I think most of the
11 reports indicate in the TAP review -- I think
12 indicated that this material binds very quickly to the
13 soil and organic matter and is not a big problem as
14 far as -- especially Reviewer 3 indicated that -- that
15 it's not a big concern for leaving the fields.

16 But if it were to leave the fields, I
17 mean, I think we would be hearing about it and seeing
18 it as a big problem, and we don't.

19 CHAIRPERSON BRICKEY: Thank you.

20 Dr. Klopp.

21 DR. KLOPP: Thank you.

22 Good morning. My name is Buzz Klopp, and

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1 I'm a Board certified poultry veterinarian who has
2 worked in this industry for about 29 years, and I'm
3 currently corporate veterinarian for Townsend's,
4 Incorporated, which is a chicken production and
5 processing company, and we have been working on an
6 organic chicken production program for about four
7 years, which culminated this summer with the
8 certification of our program by an independent agency,
9 and then with the actual growth in processing of and
10 selling actually of certified organic chickens.

11 You should have received a copy of my
12 statements. The record indicates you have it. So I
13 have another copy here.

14 I have three things I wanted to discuss.
15 First is the fine issue, and again, as a veterinarian
16 who has worked in this industry for a long time, I
17 applaud the decision of the Board to allow the three-
18 year extension, and we hope and believe in three years
19 there will be a certified organic source, but I've
20 seen too much of what happens to chickens that are bed
21 a ration deficient in methionine.

22 The second point I'd like to address is

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1 the access to outdoors of chickens. Birds are
2 different animals than cattle and horses, and birds
3 should not be allowed to run loose on the outside.
4 Keep them protected.

5 There are three perspectives from which I
6 address this. One is an animal welfare standpoint.
7 Two is a poultry health standpoint, and three is a
8 public health standpoint.

9 From an animal welfare standpoint, in the
10 countryside, which is where I spend most of my time,
11 there are predators that run loose. There are wild,
12 free roaming dogs, cats, under the right
13 circumstances, pet dogs, pet cats attack birds. Also
14 included in this are skunks, foxes, weasels, raccoons,
15 all of which can attack and kill chickens even up to
16 the ages of mature breeding stock.

17 So from an animal welfare standpoint, I
18 ask you not to allow chickens free access to the
19 outside.

20 From a poultry health standpoint, there
21 are numerous diseases that cause excessive economic
22 loss, excessive emotional hardships. I'm going to

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1 focus on two of these, one being avian influenza.
2 USDA has spent approximately \$70 million in the
3 early/mid-'80s containing an outbreak of avian
4 influenza in Pennsylvania, New York, and New Jersey.

5 There have been repeated occurrences of
6 avian influenza in the mid and late 1990s in Virginia,
7 New York, North Carolina, and I believe Texas. The AI
8 virus occurs naturally in wild migratory birds, wild
9 ducks, wild geese, seagulls, blackbirds, crows,
10 sparrows. You name it, and they carry AI.

11 We don't need chickens coming in direct
12 contact with these birds.

13 A second disease of major importance is a
14 disease we call microplasma galiseptica. It's a
15 respiratory disease. We've had a major outbreak of
16 this here just recently in eastern North Carolina that
17 caused losses up to ten to \$20 million.

18 A principal source of this is a
19 biosecurity breakdown, contact with wild, free roaming
20 fowl. So I ask you again not to allow chickens to
21 have access to the outdoors.

22 From a public health standpoint there are

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1 issues. The avian influenza virus which was shown as
2 recently as four years ago in China, and I don't want
3 to over dramatize this point, but we've shown in China
4 this virus could cross the barrier from chickens to
5 pigs to human.

6 My point is we need to treat this virus
7 with respect and not allow our chickens to come in
8 direct contact with wild and migratory fowl.

9 A second disease is the West Nile virus,
10 which we've all read about. This is a virus that
11 occurs in blackbirds, crows, sparrows, finches
12 throughout the countryside. It's carried by
13 mosquitoes.

14 Well, mosquitoes bite people. They bite
15 horses. They also bite chickens. I'm not saying that
16 there are no mosquitoes in chicken houses, but there
17 are a lot less mosquitoes in chicken houses than there
18 are outside in the open air. If you don't believe
19 that, stand out in a summer evening in the southeast
20 for half an hour and see how many mosquitoes bite you.

21 Go inside a chicken house and see how many mosquitoes
22 bite you. There's a big difference.

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1 PARTICIPANT: Time.

2 DR. KLOPP: My last point -- did you say
3 "time"?

4 PARTICIPANT: I did.

5 DR. KLOPP: All right. Well, I'll give
6 you my letter, but there's some other public health
7 issues related to salmonella that there will be some
8 comments on this.

9 CHAIRPERSON BRICKEY: All right. Thank
10 you.

11 Matt Moudy.

12 MR. MOUDY: Good morning. Thank you for
13 the opportunity to come before you and express Seeds
14 of Change in support for an organic economy standard.

15 Over the past ten years our business has evolved from
16 an organic seed company to a company that's not only
17 marketing seed, but is also marketing a successful
18 line of organic food products.

19 As Seeds of Change has grown, our
20 dedication is the same with agriculture, biodiversity,
21 and marketing a product that's 100 percent certified
22 organic, has not wavered. Seeds of Change is

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1 dedicated to delivery of product at the highest level
2 of organic purity while delivering great taste to the
3 consumer.

4 To complete with the conventional food
5 industry's ability to deliver taste, the creative
6 experts developing organic food products of today and
7 tomorrow need as many tools in the creative toolbox as
8 possible.

9 Honey is a unique sweetener that delivers
10 unique flavor systems to organic food products. The
11 opportunity to use honey in certified organic products
12 in the future will help our industry deliver a wider
13 range of great tasting foods.

14 For Seeds of Change, the economic impact
15 of not having the opportunity to use honey in
16 certified organic foods after October 2002 is
17 difficult to calculate. If an organic honey standard
18 is not in place by October 2002, Seeds of Change will
19 not lose millions of dollars or it won't have lines of
20 products taken off the store shelves.

21 The impact is that our product development
22 scientists will not have the tools to create a wider

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1 range of new food products to compete in the
2 marketplace against the conventional food products.

3 Thus, Seeds of Changes' ability to offer
4 the widest range of products to the consumer will be
5 impacted in the future. Is there an economic impact?

6 Yes, by limiting the breadth of our product offer,
7 but can I calculate the impact? No.

8 Seeds of Change would like to encourage
9 the National Organic Standards Board, encourage NOP to
10 consider the NOSB's recommendation for an organic
11 honey standard that will comply with the Organic Food
12 Production Act.

13 And that's it. Thank you.

14 CHAIRPERSON BRICKEY: Thank you.

15 Kere Kemp.

16 DR. KEMP: Good afternoon. My name is Dr.
17 Kere Camp. I am the Executive Vice President, Chief
18 Scientific Officer for Outside Corporation, which is a
19 public company based out in Redmond, Washington.

20 I appreciate the opportunity to talk to
21 you this morning. My specific subject is acidified
22 sodium chloride, which is a broad spectrum and very

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1 versatile antimicrobial process.

2 Outside Corporation is the major supplier
3 of equipment and facilities for the application of
4 acidified sodium chloride antimicrobial solutions in
5 the food industry. Specifically, our food quality
6 systems are currently installed in over 20 percent of
7 the United States poultry processing facilities, in a
8 number of beef processing facilities, and also
9 becoming introduced into the produce industry.

10 Today we treat mover than 5.5 billion
11 pounds of poultry product per year.

12 Acidified sodium chloride solutions are
13 mixtures of a material from sodium chloride, which is
14 a crystallized salt of chlorine and citric acid.
15 Citric acid obviously is the principal component of a
16 number of products that we're used to, lemon juice,
17 orange juice.

18 Sodium chloride is an inorganic salt made
19 from the reduction of chlorine dioxide. Sodium
20 chloride is used extensively in the United States in
21 municipal water treatment as a precursor for making
22 chlorine dioxide and as an alternative to using

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1 chlorine.

2 Acidified sodium chloride is a very strong
3 oxidizing agent with stronger oxidation potential than
4 chlorine or chlorine dioxide. It is a clear,
5 colorless liquid with no foaming capabilities. It has
6 a mild, chlorine-like odor, a pH which is acid,
7 somewhat similar in range to that of a Diet Coke, and
8 the specific gravity is essentially that of water.

9 SC solutions are made on site at the
10 facilities where they're being applied and on demand
11 by mixing the sodium chloride and citric acid
12 together. In a typical large processing facility,
13 whether it be poultry, beef, or produce, the precursor
14 materials which are concentrates of chloride and
15 citric acid are stored separately in bulk storage
16 facilities.

17 These precursors are pumped by appropriate
18 proportion of pumps and water dilution modules to make
19 the final-use dilution of product, and in a typical
20 application, the final product that is applied to the
21 raw foods is .1 percent sodium chloride, .6 percent
22 citric acid, and 99.3 percent water.

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1 Its major use to the food industry, as I
2 mentioned earlier, is as a microbial control agent for
3 both food contact surfaces and for direct contacts
4 with the raw foods, be they poultry, red meat,
5 seafoods, or fruits and vegetables. Where used for
6 this material as a very significant impact on the
7 microbial populations, specifically the pathogen
8 populations.

9 Typically, reductions in the order of 99
10 to 99.9 percent or higher are achieved against such
11 organism as E. coli, salmonella, campylobacter or
12 listeria. As a consequence, the use of acidified
13 sodium chloride in the food industry has a very
14 significant impact on food safety.

15 The primarily mode of action of acidified
16 sodium chloride is oxidative. It destroys the outer
17 cell membrane of vegetative bacterial cells, spores,
18 yeasts and molds.

19 The first processing approval of acidified
20 sodium chloride solutions for use on chickens was
21 published in the Federal Register in 1996. In that
22 publication, the FDA concluded that ASC solutions are

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1 safe and will have the intended effect of reducing
2 microbia contamination on poultry, were first used in
3 poultry in 1998.

4 At this time, FDA has approved ten
5 specific applications of acidified sodium chloride,
6 including poultry, as well as red meats and fruits and
7 vegetables.

8 It is an effective microbicide for
9 disinfecting equipment, seeds, plants, and materials,
10 as well as foods. It has significant advantages over
11 chlorine as a consequence of the fact that it does not
12 chlorinate materials. Therefore, it does not produce
13 mutagenic or carcinogenic properties.

14 We believe that ASC solutions meet all of
15 the requirements for organic processing and,
16 therefore, we're petitioning the National Organics
17 Board to grant approval of acidified sodium chloride
18 as an antimicrobial for use in processing organic
19 poultry, meats, fruits and vegetables with the same
20 requirements and restrictions that are currently
21 codified in Title 21 of CFR 173.

22 Finally we'd like to enter this five-page

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1 summary to the record and would be pleased to answer
2 the Board's questions now or in the future.

3 CHAIRPERSON BRICKEY: Thank you.

4 MS. BURTON: Will you be submitting a
5 petition?

6 DR. KEMP: Yes, we will.

7 CHAIRPERSON BRICKEY: Dick Kringle.

8 MS. GOODMAN: Okay. Dick Kringle extends
9 apologies for their not being able to attend today.
10 I'll be delivering their statement on their behalf.

11 You'll see in front of you this is a
12 statement of a study of a situation where DL
13 methionine was not used in the production of organic
14 poultry. I'm just going to read through briefly.

15 There are a couple of corrections that
16 need to be made to the text, and I'll identify them as
17 I go.

18 The background and purpose. We have been
19 treating the synthetic amino acids DL methionine in
20 our organic broiler feeds for 12 years and have never
21 attempted to raise birds without it. We decided to
22 conduct a trial raising chickens without DL methionine

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1 to see what the results would be. For the purposes of
2 this trial a series of feeds were formulated without
3 DL methionine and fed to broilers in typical houses.

4 The trial was in effect during a period
5 for which the birds were confined prior to allowing
6 access to the outdoors. This is the time before the
7 feathers had matured fully.

8 Living conditions, the living conditions.

9 We normally keep our chickens indoors for the first
10 four to five weeks for their protection. Once the
11 chicken are fully feathered, typically at four to five
12 weeks, we open the doors and the broilers go out when
13 they are comfortable outdoors, when weather conditions
14 are -- and please insert the word "not proper" for
15 outdoor access. The birds remain inside the house.

16 Under feed formulas, starter feed is fed
17 from zero to 21 days, and grower feed is fed from 22
18 to 35 days. In the trial, the feeds referred to as
19 control are typical feeds formulated with organic
20 corn, soybean meal, flax seed meal, vitamins, trace
21 minerals, DL methionine and calcium, phosphorus
22 sources.

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1 The feeds referred to as control -- excuse
2 me -- the feeds referred to as no DL methionine do not
3 contain DL methionine, but are formulated with the
4 same other ingredients described above.

5 The principal difference was a 30 percent
6 increase in protein and a 35 percent decrease in
7 methionine content.

8 The results. You will see in your packet
9 photos of the birds at 21 and 28 days. Under weight
10 gain. The birds were weighed daily with an in-house
11 scale that recorded the weights as birds stepped on
12 the scale. There appeared to be a small difference in
13 weight. We considered it to be in the normal range of
14 difference between houses.

15 In Sheet 1, you'll notice the photos of
16 feathering skin irritation at 21 days, and these are
17 very amazing photographs. So this -- never mind.

18 On Sheet 1, there are comparisons in
19 feathering at 21 days between the two groups. The
20 birds fed the no DL methionine feed have less feather
21 cover, particularly on the leading edge of the wing
22 and on the rear. The skin on the rear of the no DL

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1 methionine broiler was irritated from the high uric
2 acid in the feces, as evidenced by the red color when
3 normally it is pink.

4 The excess protein in feed is used as
5 energy, and the nitrogen is excluded as uric acid.
6 Uric acid is converted to ammonia in the litter.

7 Weather conditions were good during the
8 trial, and we were able to allow more air than normal
9 in the house for ventilation, and if you would in the
10 next sentence replace the word "normal" with the word
11 "winter." Under winter conditions, we would not have
12 been able to ventilate to the same degree. We may
13 have noticed eye -- and then please insert the word
14 "lung damage" to the birds from the excessive ammonia
15 levels.

16 Do you want me to read that again, Goldie?

17 MS. COUGHLIN: We don't have the ability
18 to do that.

19 MS. GOODMAN: Did you get the draft of
20 this, Madame Chairman?

21 CHAIRPERSON BRICKEY: No, I did not.

22 MS. GOODMAN: Okay. Second page, the top

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1 of the second page that begins with "weather
2 conditions."

3 PARTICIPANT: We already got it.

4 MS. GOODMAN: Okay. Weather conditions
5 were good. If you would go to the second sentence
6 please and replace the word "normal" and use the word
7 "winter." Replace "winter" with "normal."

8 Under normal conditions we would not have
9 been able to ventilate to the same degree. We may
10 have noticed eye -- and please insert the words "and
11 lung damage" to the birds from the excessive ammonia
12 levels.

13 Sheet 2. This is litter condition at 21
14 days. The no DL methionine broilers were allowed 30
15 percent more floor space to alleviate the wet litter
16 condition that occurred when excess protein was fed.
17 The birds consumed more water so that the uric acid
18 could be excreted.

19 On Sheet 2 there is a comparison of litter
20 conditions in the two houses. One of the indications
21 of a methionine deficiency is the consumption of
22 molted feathers from the litter. In the photos you

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1 can see that the no DL methionine birds have eaten all
2 of the molted feathers. The litter was wet and caked
3 in that house.

4 Sheet 3, feather and skin irritation at 28
5 days. Normal feathering has occurred on the control
6 broilers, and if weather conditions are correct, these
7 birds would be allowed outdoor access.

8 The broilers on no DL methionine lacked
9 feather cover on head, wings, and back and under the
10 wings. The rear ends of these birds showed signs of
11 irritation from uric acid in the feces.

12 Sheet 4, foot pad condition at 28 days.
13 None of the noticeable differences between the two
14 groups was the condition of the foot pads. Excuse me.

15 One of the noticeable differences.

16 The control broilers were clean and
17 normal. Foot pads on the no DL methionine feed were
18 dirty and blistering had occurred. When you touched
19 the pads, the birds experienced some pain because of
20 the blisters.

21 Conclusions. Formulating feeds without DL
22 methionine results in feeds that are deficient in

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1 methionine which is required for proper feather
2 growth. The feeds contain excess protein, which is
3 broken down by the chicken, and the nitrogen from that
4 process is excluded as uric acid.

5 In our trial, we noted that litter in the
6 house was excessively wet from the water required to
7 carry the uric acid through the kidneys. There was
8 also noticeable damage to the foot pads from the
9 excessive uric acid and blistering occurs.

10 MR. RIDDLE: Time, time.

11 MS. GOODMAN: Time? Okay. Then in place
12 as -- can I read one letter? This is the letter that
13 attaches to it.

14 MR. RIDDLE: Summarize it, please.

15 MS. GOODMAN: The summary is that the
16 gentleman who was responsible for grow-out asked Mr.
17 Kringle. He said, "If I'm asked to raise chickens
18 under these conditions again, I will refuse."

19 Thank you very much for the time, and if
20 you have any questions, I may not be able to answer
21 them, but perhaps someone else in the room can.

22 MR. BANDELE: I just have one. Does that

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1 mean all of the foot pads in one group were healthy
2 and all of the foot pads -- what were the percentages?

3 MS. GOODMAN: I don't have percentages for
4 you. Perhaps I could get them for you from Mr.
5 Kringle.

6 MR. HARPER: I have two questions. The
7 first question, I don't understand the statement, the
8 principle under feed formulas. The principal
9 difference was a 30 percent increase in protein.

10 MR. SIDEMAN: Steve, I E-mailed Dick
11 Kringle for details on that, and he hasn't gotten back
12 to me yet. So I was wondering if you could --

13 MS. GOODMAN: I'll find out on that.

14 MR. HARPER: What I was looking for was
15 differences between --

16 MR. SIEMON: It would be 17 percent
17 protein to a 22, 23 type protein and still didn't get
18 the right kind of level.

19 MR. SIDEMAN: But I was looking for what
20 ingredients he was using in the different feeds, and
21 he hasn't gotten back to me.

22 MS. GOODMAN: I can get them for you.

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1 MR. SIEMON: I think he just increased the
2 levels.

3 MR. SIDEMAN: I think he just increased
4 the amount of soybean.

5 MR. SIEMON: And it's just the same ratio.
6 It's just the proportions were changed.

7 MR. SIDEMAN: Exactly.

8 MR. HARPER: Okay, and then the other
9 question under conclusions, or maybe I just missed it,
10 was there actually a yield determined at the end of
11 study?

12 MS. GOODMAN: Do you mean the number of
13 pounds of the birds?

14 MR. HARPER: Right, or the amount of
15 pounds, you know, the weight, you know, the weights.

16 MR. SIEMON: They abandoned the trial in
17 32 --

18 MR. HARPER: They just abandoned the
19 trial?

20 MR. SIEMON: -- in 32 days.

21 MR. HARPER: Okay, okay.

22 MS. GOODMAN: Yeah. As I said earlier,

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1 the feeds were normally done -- it's normally 35 days.

2 They ended at 32.

3 MR. SIDEMAN: Okay, okay.

4 MR. WELSH: I think that's a question to
5 ask. What happens when --

6 MS. GOODMAN: What happens when they put
7 them back on?

8 MR. WELSH: Right.

9 MS. GOODMAN: Okay. Yes?

10 MS. KOENIG: It's just the problem I see
11 with the study is that, you know, your controls and
12 feeding and taking methionine out, and I don't think
13 that's what -- if, and I'm not saying that this is
14 going to be the conclusion, but say as what might be
15 proposed by the livestock committee, that you have
16 three years, I mean, the idea is to change your
17 typical feed to try to get additional methionine.

18 MS. GOODMAN: I understand your question,
19 and I would have to check with Dick to be sure, but I
20 understand that.

21 MS. KOENIG: I appreciate when somebody
22 does a study, but I think if people are going to have

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1 to look at reformulating, we need to go through a
2 regular scientific study.

3 MR. SIEMON: But this is not just no
4 methionine. They increased the --

5 MS. GOODMAN: They increased the protein
6 so that the methionine would be provided.

7 MR. LOCKERETZ: But the methionine is not
8 provided. It says 35 percent decrease in methionine.

9 MR. SIEMON: But a 30 percent increase in
10 protein.

11 MS. GOODMAN: Increase in protein.

12 MR. SIEMON: So they increased the
13 percentages of the one. They did not --

14 MR. LOCKERETZ: But once you know that the
15 -- you are adding DL methionine for a reason, which is
16 that the birds need methionine. Once you know that
17 you're lowering methionine, why bother doing an
18 experiment? The experiment seems to merely subject
19 animals to a procedure which there is an absolutely
20 predictable conclusion, which is if you have too
21 little methionine birds are not going to do well. We
22 know that.

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1 CHAIRPERSON BRICKEY: Well, let's debate
2 this later. We need to move on.

3 MS. GOODMAN: I'll ask Dick about it an
4 I'll get back to you.

5 MR. LOCKERETZ: It does make for nice
6 pictures, granted.

7 MS. GOODMAN: I think there might have
8 been a little misunderstanding of the actual feed
9 rations, that this would be an alternative if there
10 wasn't any methionine available.

11 Thank you.

12 CHAIRPERSON BRICKEY: Thank you. Our next
13 speaker is Robin Downey.

14 While we're waiting for Mr. Downey, let me
15 just ask speakers this. If you are staying through
16 the conclusion of the meeting and we are not
17 considering an issue that is going to be addressed at
18 this meeting, would you mind deferring your comments
19 until the second comment period?

20 We have a lot of people to get through.
21 If you would just think about that before we call on
22 you.

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1 All right, and be judicious, which is
2 Wednesday morning at eight o'clock, by the way.

3 All right. Are you Mr. Downey?

4 MR. HERMON: No, my name is Dan Herman,
5 and I am reading comments; is that okay?

6 CHAIRPERSON BRICKEY: Okay, yes.

7 MR. HERMAN: Quote: for the record, my
8 name is Robin Downey, and I am the Executive Director
9 of the Pacific Coast Shellfish Growers Association,
10 which represents mollusk and shellfish growers from
11 Alaska, Washington, Oregon, California, and Hawaii.

12 I want to thank you for accepting my
13 comments in absentia.

14 I presented this Board with a white paper
15 on the subject of developing organic standards for
16 shellfish and also spoke before this group last spring
17 in Los Angeles. I have nothing new to add in terms of
18 information. We are still growing shellfish to the
19 same high standards I described in the white paper,
20 and I still maintain that shellfish are by their very
21 nature organic in the truest sense of the word.

22 I understand, however, that the current

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1 organic standards are based upon a terrestrial model
2 and that aquaculture does not fit neatly into that
3 mold. I would argue that it does, in fact, meet the
4 intent of the law, but the Aquaculture Task Force has
5 unfortunately made recommendations based upon the
6 letter of the law.

7 While I have several arguments about the
8 merits of their recommendations to this Board, I will
9 not waste your time by listing them here. Instead, it
10 seems clear that the solution lies in developing a
11 separate but equal set of standards specific to
12 aquaculture, and even then we will need to
13 differentiate between species in order to develop
14 standards that are truly meaningful and implementable
15 at the water farm level.

16 So that is what I would like to recommend
17 to the NOSB at this time. Do not ask us to meet the
18 current terrestrial standards or throw us out of the
19 mix because of the perception that we can't meet those
20 standards.

21 Please recommend to the USDA that they
22 support the development of new standards specific to

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1 aquaculture, and appoint a well rounded committee made
2 up of experts in the various aquaculture species, as
3 well as experts in the organics field.

4 This will allow us to compete with
5 terrestrial produced foods in the growing organics
6 marketplace. Given the significant health benefits
7 associated with seafood as a part of our diet and
8 especially given the very significant benefits to the
9 marine environment that is an offshoot specifically of
10 shellfish aquaculture, I think this approach will
11 serve the consumer and the many seafood producers
12 well, while not undermining or diluting the standards
13 already developed for land based farms.

14 Thank you, again, for the opportunity to
15 provide comments, and thank you for carefully
16 considering my recommendations.

17 CHAIRPERSON BRICKEY: Mr. Herman, thank
18 you.

19 Elliott Gibber.

20 Susan Boa.

21 MS. BOA: Good morning. Thank you.

22 I am Susan Boa. I work for the Seafood

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1 Choices Alliance, which is a new organization devoted
2 to sustainable seafood, working with food providers,
3 such as restaurants, fishermen or retailers, and the
4 nonprofit community that's engaged in making seafood
5 recommendations to consumers.

6 I have representative comments from two
7 people I'd like to show each day regarding organic
8 standards for seafood. The first is from Henry
9 Lovejoy who's the President of the Ecofish, which is
10 the country's first exclusively sustainable seafood
11 retailer.

12 He writes, "Ecofish completely supports
13 the aquatic species task force recommendations that,
14 one, organic standards for wild caught fish not be
15 established since the production of wild caught fish
16 is not consistent with some of the key principles
17 underlying organic agriculture, and, two, that organic
18 standards can be developed for certain limited types
19 of aquaculture systems that are consistent with
20 principles of organic production."

21 My second comment is from Stephanie Crane,
22 who is the President of SCO Communications, which

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1 represents a number of restaurants in the New York
2 City area, and she writes, in part, "There are
3 organizations in place whose mission it is to evaluate
4 whether or not wild fisheries are sustainable, such as
5 the Marine Stewardship Council. I believe USDA's
6 efforts would be much more effective if it would
7 consider assessing U.S. aquaculture an industry that
8 presently is unregulated."

9 That's all. Thank you.

10 CHAIRPERSON BRICKEY: Thank you.

11 Tina Eller.

12 MS. ELLER: Hi. My name is Tina Eller,
13 and I'm speaking today on behalf of the Organic
14 Working Group for the American Mushroom Institute.

15 I know that coming up with mushroom
16 standards has been a real challenge because mushrooms
17 are a truly unique crop, and I want to go into today a
18 little bit about why they're unique, and then just
19 touch on some of the key points of the comments that
20 were made back in July.

21 Mushrooms are by definition fungi with
22 fruiting bodies large enough to be seen with a naked

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1 eye and to be picked by hand. I'd like to point out
2 that while mushrooms are fungi, not all fungi are
3 mushrooms. So this comment is just going to address
4 mushrooms, which is different from, say, antibiotic
5 production, which are fungi; yeast for bread and beer,
6 which are also fungi.

7 Eight hundred and fifty-three million
8 pounds were reported grown in the United States last
9 year of total mushrooms in 2000-2001. There are 264
10 mushroom growers, down 40 from last season. The value
11 of the sales, especially the mushrooms, was 42.7
12 million.

13 Sales of organic mushrooms, a specialty
14 crop, that would include portabello and porcini, total
15 8.5 million for the same period from 29 certified
16 organic growers. That's 11 percent of all of the 264
17 mushroom producers.

18 In Pennsylvania where agriculture is still
19 the number one industry, mushrooms are the number one
20 agricultural crop in Pennsylvania, number two being
21 field hay to supply the mushroom industry. As a
22 secondary benefit that also -- the value of the field

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1 hay keeps open land in Pennsylvania.

2 The mushroom industry is the premier
3 recycler and has been for over 100 years. Mushroom
4 compost is a very different compost than compost
5 applied to the fields, as I think you have read in the
6 comment that we made back in July. The purpose of
7 mushroom compost is to provide selective media for
8 growing mushrooms.

9 I don't really have time to go through the
10 process by which that's done, but it's done at a much
11 higher temperature than is allowed by the compost
12 standard, and it takes a much shorter time because
13 these processes happen much more quickly at a higher
14 temperature.

15 In one standard Pennsylvania mushroom
16 double, 20 tons of field hay straw are put in, ten
17 tons of stable bedding, 15 tons of poultry litter, six
18 tons of cottonseed hulls and/or corn cob, four tons of
19 cottonseed hulls and two tons of cocoa hulls from
20 chocolate making.

21 Depending on where a mushroom grower is in
22 the country, these recipes can change, but they all

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1 use and recycle agricultural and some industrial waste
2 like from cotton processing.

3 On our farm alone, we use 80 tons of
4 wheat, of sawdust from Pennsylvania sawmills to grow
5 shiitake mushrooms.

6 So the two major points that we want to
7 reiterate from the comments that were made in July are
8 that we can't fit mushroom composting under the
9 composting standard, and there are some concerns that
10 were brought out in the composting standard that
11 really don't apply to mushrooms. The carbon to
12 nitrogen ratio and the issue of putrefaction and
13 pathogens, those things just don't come through in
14 mushroom compost.

15 The other really two important areas that
16 we'd like to address are the need to use organic
17 mushroom spawn and the need to use organically
18 certified substrates in mushroom production.

19 Because mushroom growing is a specialty
20 crop and growing specialty mushrooms is a specialty
21 within that specialty crop, the inputs that you have
22 at the beginning, specially in spawn are very, very

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1 critical.

2 For the most part organic mushroom spawn
3 is not available on a scale or in the quality that
4 it's needed to produce -- oh, my gosh, time is up
5 already.

6 We would like to see, to sum up, that --
7 we'd like to emphasize a focus on cultivation and
8 management of the mushroom crop, that people actually
9 consume rather than the substrates that they're grown
10 on.

11 Thank you very much.

12 CHAIRPERSON BRICKEY: Thank you.

13 Lyn Cody.

14 MS. CODY: Hi. My name is Lyn Cody. I'm
15 the owner and principal consultant of Organic Ag.
16 Systems Consulting in Eugene, Oregon.

17 Today I'll be addressing my concerns about
18 the potential for disruption of the organic
19 marketplace as a result of the implementation of NOP's
20 accreditation system under the rule as written.

21 As the date of submission for first round
22 accreditation applications approaches, I've been

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1 working with certifiers from around the country as
2 they prepare their documents and quality systems for
3 accreditation by the National Organic Program.

4 This work has given me the chance to
5 analyze the certification and accreditation sections
6 of the rule every working day since the release of the
7 rule.

8 Although there has been a very well
9 articulated outside about the conflict of interest
10 provisions, I'd like to point out some of the other
11 accreditation requirements that without carefully
12 conceived actions by the USDA to mitigate their
13 effects, they have the potential in my opinion to
14 cause tremendous market disruptions for the American
15 organic industry.

16 I have a number of these proofs that I've
17 done using the rule and some conclusions, but I don't
18 have time to present them today. I'll give them to
19 you in writing.

20 But today I'd like to look at one example
21 of how the NOP accreditation requirements will play
22 out in the organic marketplace, and this has a lot of

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1 detail. It's hard to get it on the slide. So I hope
2 this will come across okay quickly.

3 In April 2001, the USDA will announce the
4 accreditation of the first round of accredited
5 certifiers --

6 MR. WELSH: 2002.

7 MS. CODY: No, 2001 -- oh, I'm sorry.
8 2002, right. Okay. Yes, see, I'm even mixed up.

9 If the internationally accepted
10 conventions of accreditation as found in ISO-61 and
11 required by the rule are followed by the NOP, at that
12 point next April the accredited certifiers must
13 require that the producers they certify be fully
14 compliant with the USDA standard, except in the case
15 of minor noncompliances that may be handled through
16 certification conditions.

17 As of next April then, the producers
18 certified by these accredited certifiers may not use
19 products from any sources that are not certified by
20 NOP accredited certifiers. And there lies the
21 problem. The rule has no provisions for allowing
22 acceptance of the product on a case-by-case basis

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1 through document review, which is the mechanism the
2 industry currently uses.

3 So the flow of products from American
4 certifiers not accredited by the NOP at that time to
5 NOP accredited certifier is blocked for six months
6 prior to full implementation of the rule when the
7 problem will resolve itself because then every
8 certifier in America will have to be accredited in
9 October 2002.

10 However, this problem will continue to
11 occur for foreign certifiers that are not accredited
12 potentially for grower groups because under my reading
13 of the rule, I still am having a difficult time
14 understanding the interpretation that grower groups
15 are allowed.

16 When one thinks through the number of
17 products that currently enjoy a free flow of commerce
18 within the accreditation and certification systems in
19 current use in the U.S. and around the world, the
20 effect of blocking the flow will be very difficult on
21 producers, distributors, and the certifiers
22 themselves.

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1 The implications of this constricted
2 market are very sobering, indeed.

3 As we enter the era of federal regulation
4 of the organic industry, I know that both the industry
5 and the NOP would benefit from carefully crafted
6 documentation of the NOP's accreditation program, and
7 I am happy to hear that they're working on this. I
8 suggest the NOP also take a careful look at all of the
9 elements of its accreditation program and the
10 interactions between them and their compliance with
11 international norms, and then develop a step by step
12 plan for implementation of the accreditation system.

13 We have one step which has to do with the
14 first round of accreditation, but there's many other
15 implications of other parts of the accreditation
16 system that I don't feel are fully addressed by a
17 phase-in program.

18 The industry needs such guidance in order
19 to address potential problems before they become
20 stumbling blocks to trade. The NOP itself needs this
21 clear and precise documentation in order to manage the
22 accreditation process with uniformity and fairness, as

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1 well as to comply with Section 2.1.7, the
2 documentation section of ISO-61, as mandated by
3 Section 205.509 of the final rule.

4 So my conclusion is from my perspective
5 the following four elements are essential for the
6 successful implementation of the NOP accreditation
7 program.

8 First, a written plan made available to
9 the public that addresses graceful phase-ins for each
10 element of the accreditation system.

11 Second, an audit checklist for use by
12 certifiers in their preparation for accreditation and
13 for use by the NOP auditors during the accreditation
14 process, which I have become informed that they are
15 working on. Very happy to hear that.

16 And most importantly to me, a quality
17 system manual for the accreditation program itself
18 that addresses both the conceptual and practical
19 issues which have troubled the organic industry since
20 the publication of the final rule, and which insures
21 equitable application of the accreditation
22 requirements for all certifiers.

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1 And finally, appointment of the peer
2 review panel as soon as possible.

3 Thank you very much. I'll be glad to
4 answer questions either now or later on. Thanks a
5 lot.

6 CHAIRPERSON BRICKEY: Thank you.

7 MS. DOWNEY: Hello. I'm Catherine Downey,
8 Executive Director of OMRI, Organic Materials Review
9 Institute.

10 And we are proud to announce we have our
11 new generic materials list available. The process
12 that we went through for developing this was staff
13 went through all 800 generic materials listings that
14 we have for crops, livestock and processing and
15 evaluated each one against the national list, and we
16 added in a new column in the generic materials list to
17 show where that material fell under the rule.

18 Then our board has to send that out for
19 comment to our review panel or advisory council and
20 our subscribing certifiers, which is 39 certifiers
21 that work with us.

22 And it was designed to assist people to

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1 see where the changes were happening so that they
2 could implement that into their programs. So it's
3 written more like a Word document that's still in
4 revision. You can see the strikeouts and the things
5 that are going to be removed, and you can see the
6 things that are underlined and are going to be added.

7 We also sent this to the OSB and NOP. So
8 you had seen the draft version, and at the end here we
9 will give you the new one. It is a bootleg copy. It
10 just came from the printer. So these are the only
11 ones I've got.

12 And in April 2002, we will take out the
13 revision note and make the final document. We chose
14 the April 21st date to coincide with the announcement
15 of accredited certifiers.

16 At the bottom of this list, and we hope by
17 then that these changes will be changed; we've got two
18 different footnotes. One is that the NOSB has voted
19 to list the material, but the Federal Register process
20 for adding material has not been completed. So we
21 just wanted to point this out, what those were, and
22 also the ones that we submitted as suggested technical

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1 corrections. So we had two footnotes there.

2 What we're doing now is taking this new
3 list and evaluating it against our 600 brand name
4 products that are listed with OMRI, going through each
5 product ingredient by ingredient to see where it falls
6 into the final rule and writing each of those
7 manufacturers a letter.

8 Some of the areas that we've seen concern
9 with so far are in the aquatic plant products, fish
10 products, compost, and manure, and under livestock it
11 would be carriers and fillers, we'll save our comment
12 until Wednesday on that. Medications, topical
13 treatments, and processing and pest control. So
14 that's possibly going to be quite a few products that
15 will have to be removed from the list or hopefully the
16 manufactures will be able to reformulate them before
17 that date.

18 So I'll pass you up the copy.

19 CHAIRPERSON BRICKEY: Is that it Carolyn?

20 Thank you. Thank you for being brief, too.

21 Jim Pierce. Okay, Jim.

22 MR. PIERCE: Ladies and gentlemen of the

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1 gallery, honored guests, NOSB members, NOP staff,
2 Madame Chairman, most of you know me. I'm Jim Pierce.
3 Certifications czar at Organic Valley Crop
4 Cooperative, based in beautiful La Farge, Wisconsin.

5 (Laughter.)

6 MR. PIERCE: I want you all to listen
7 carefully. What you hear is a train. It's been ten
8 years building momentum, and it's barrelling towards
9 us at full speed, scheduled to arrive October 22nd,
10 2002.

11 Whether that train whisks us all into a
12 new paradigm or wreaks havoc is in your hands. Right
13 now there are a lot of people, a lot of us standing on
14 the platform rooting for you, wishing you the very
15 best, willing to pitch in and help, but at the same
16 time worried that maybe we should stand back a little
17 ways for safety's sake.

18 (Laughter.)

19 MR. PIERCE: Four months ago it was my
20 pleasure to stand before you and offer you world
21 saving advice on a litany of issues with the message
22 "keep integrity in organics."

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1 Today my point is more dramatic, more
2 desperate even. Do what you need to do in order to
3 have a workable, functional rule next October.

4 To illustrate my point, I call your
5 attention to this abbreviated version of a report
6 addressing livestock materials used by Organic Valley
7 Farms. The full manifesto will be presented to
8 members of the Livestock and Materials Committee, as
9 well as copies to Mr. Mathews at the NOP.

10 We surveyed nearly all of our 400
11 producers, received responses from roughly two thirds
12 of them, tallied the resulting 260 plus materials, and
13 boiled them down into the report that you have before
14 you now.

15 Materials are divided roughly into three
16 classes that we feel they belong, 110 items that we
17 felt were clearly acceptable in your national list,
18 over 90 materials that we felt clearly needed
19 petitioning for inclusion to the national list, and I
20 wonder how many hundreds of hours, thousands of
21 dollars, and years of process that represents.

22 Sixty-five more fell into the omnipotent,

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1 gray area where argument could be made either way or
2 where materials listed for certain usage but not for
3 others. In fact, arguments could and doubtless will
4 be made as to the crudeness of our characterization of
5 many of these materials.

6 This report focuses only on active
7 ingredients. The abyss of inerts, adjuncts, carriers,
8 stabilizers, and preservatives is not addressed at all
9 in this report, but is a great concern of all of us.

10 Personally I get a pronounced MSG style
11 anxiety rush when I concentrate on it for any length
12 of time.

13 (Laughter.)

14 MR. PIERCE: Oh, how I wish I could put
15 your hands on the controls of that metaphoric training
16 or show you a track switch that would put all of this
17 momentum safely on the right track, but I cannot. The
18 destiny of the train is yours. Think carefully; act
19 confidently; but don't waste any precious time.

20 Do what you need to do in October to have
21 a workable, functional rule by next October. For
22 those of you stepping down from the Board, thank you

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1 for your sacrifice and service and for a job very well
2 done.

3 For those of you remaining to carry the
4 torch and train the new recruits, thank you and keep
5 up the very good work.

6 To everybody, past, present and future,
7 responsible for taming this beast of the National
8 organic Program, God bless and Godspeed

9 Are there any questions?

10 CHAIRPERSON BRICKEY: Thank you, Jim.

11 MR. SIDEMAN: Jim, we've been trying for
12 years to get materials like these petitioned, and we
13 haven't been successful. Do you have suggestions?

14 We know that this train wreck is
15 occurring, and we can --

16 MR. PIERCE: The first suggestion is to
17 prioritize because there's just too many of them.

18 MR. SIDEMAN: But who are we going to get
19 to make the petitions up? That's our problem.

20 MR. PIERCE: Well, my experience with
21 petitioning is that it's a long, drawn out process,
22 and that as even in my capacity, let alone as a farmer

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1 capacity, we just don't have the expertise to put
2 forth the proper petition to get the TAP to be
3 started. So maybe the whole problem is to simplify
4 the petition process. Maybe it's too late for that.

5 MR. RIDDLE: Jim, speaking of simplifying
6 things, I'm having trouble understanding your table.

7 (Laughter.)

8 MR. RIDDLE: Some of these things are
9 listed and approved, but I'm not seeing where I can
10 easily pick out which ones are and which ones aren't
11 over the whole --

12 MR. PIERCE: Oh, the whole first table?
13 Yeah.

14 MR. RIDDLE: Oh. I wondered why there
15 wasn't --

16 MR. PIERCE: Three broad categories, and
17 like you said, the one that cites --

18 MR. RIDDLE: Okay.

19 MR. PIERCE: -- section and verse on the
20 acceptance, that's two or three pages wide, and it's
21 just very difficult to present. So that will be
22 coming to the Livestock Materials Committee.

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1 MR. MATHEWS: When you say "approved,"
2 these are the ones that are on the national list
3 today?

4 MR. PIERCE: Or are interpreted to be on
5 the national list, as botanicals or nonorganic
6 ingredients, but whether or not they go into feed or
7 herd health is a big decision.

8 MR. CARTER: What specifically would you
9 recommend to stream the decision petition process?

10 MR. PIERCE: I'm reluctant to do that
11 because we're on the commercial side of the business,
12 and I'd really like to hear that come from the
13 accrediting agencies, and I think it's going to, but I
14 think there has to be some sort of a sunset allowing
15 them to review, accepted on the grounds of all the
16 work that's gone before by the certifying agencies and
17 by OMRI. I think there has to be a broad categorical
18 decision towards that end.

19 Richard?

20 MR. MATHEWS: Your statement "under
21 review," we recently had a letter come in, essentially
22 a petition, asking for the same thing, but how can we

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1 allow something as under review if we don't have any
2 request to review the substance?

3 I mean, the act specifically requires that
4 a petition be filed for this body to address adding
5 something to the national list. So how do we say that
6 something is under review if it's not under review?

7 MR. PIERCE: Well, I guess where I wish I
8 could put your hand on that switch, but I don't know.

9 The point of this report is not to point out the
10 futility of the whole project, but simply the depth of
11 it, the perspective of it.

12 We've spent two years just trying to get
13 an accurate list of everything the farms were using,
14 and I doubt if this is the entire list either.

15 MR. MATHEWS: And I'm afraid that you're
16 correct. I think that what you're asking us to do is
17 essentially what 275,000 people criticized the
18 department for doing a few years ago. This body had
19 not approved substances for the list, had not received
20 petitions for substances for the list.

21 Now, we have people in the industry coming
22 to us and saying, "Disregard the act. Disregard what

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1 the Board has done in the past, and let's just blanket
2 put these substances on the list."

3 My concern is the 275,000 people really
4 blasted the Department of Agriculture for doing that a
5 few years ago. So how do we get over that?

6 MR. PIERCE: I hope you're asking that
7 question --

8 MR. MATHEWS: Yeah. I mean --

9 (Laughter.)

10 MR. MATHEWS: I mean, can you understand
11 the situation?

12 MR. PIERCE: Yeah. There are materials on
13 this list that we don't want on the list even if they
14 may be approved or used by -- unnoticed, gone
15 unnoticed until now.

16 MR. MATHEWS: Yeah. I guess where I'm
17 coming from is that the message that we got at the
18 Department of Agriculture was don't put anything on
19 that list unless you have gotten a petition and the
20 Board has specifically recommended that it be added to
21 the list.

22 Now, how do we get by that? I don't know.

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1 Maybe somebody else has an idea.

2 MS. BURTON: I have a question for you.
3 Jim asked if there was a way to simplify the petition
4 process, and that's come up a number of times. Do we
5 have a capability of simplifying that process? Can
6 the Board make recommendations to that effect?

7 MR. MATHEWS: I think that what you have
8 to look at, Kim, is can the process be simplified in a
9 way that provides the vendors who are performing the
10 TAP reviews with enough information to adequately
11 perform the tap reviews.

12 MR. SIDEMAN: Richard, to go along with
13 that, is this --

14 MR. MATHEWS: So, I mean -- just a second.

15 So if you've got ideas on how we can make
16 this simpler, we'd be glad to entertain them. The
17 question that you have to pose to yourself is: will
18 simplifying the process injure the ability of the TAP
19 reviewers to do the analysis that we have requested
20 them to do?

21 Eric.

22 MR. SIDEMAN: I was just wondering if we

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1 could take a list like this and just ask for TAP
2 reviews on all of these materials or a preliminary tap
3 review at least, and then go for more information if
4 we need it.

5 CHAIRPERSON BRICKEY: Let me just
6 interject here. One of the problems we faced when we
7 started this process is having sufficient information
8 about these materials so that we knew what was being
9 petitioned; we knew what the use was; and we had
10 enough information to do a well informed job.

11 We, frankly, did some petitions early in
12 the game that weren't that well constructed, and that
13 we have to avoid. And I think, you know, one of the
14 things we need to know from our General Counsel's
15 Office is what constitutes a petition.

16 If it's just a piece of paper that says,
17 "Please approve X," then, yeah, it would be pretty
18 quick to get petitions out for all of these, but I
19 don't think we would be able to develop the kind of
20 information we need. So that's important.

21 MR. PIERCE: Conversely though the system
22 that is there right now is really burdensome for the

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1 layman to try to get a petition in.

2 CHAIRPERSON BRICKEY: Rosalie.

3 MS. KOENIG: I know it's not going to
4 happen for all materials, but there's some materials
5 that might be used for multiple uses where we're only
6 getting one use for the petition.

7 CHAIRPERSON BRICKEY: Yes.

8 MS. KOENIG: It seems that one easy way to
9 facilitate, if someone's doing a TAP review, have them
10 do all of the uses, regardless of what is being
11 petitioned for.

12 CHAIRPERSON BRICKEY: Right.

13 MS. KOENIG: Then at least you covered
14 that, and that solves some of the work of having to
15 rego back.

16 CHAIRPERSON BRICKEY: And we've
17 entertained that, and I think that in certain
18 circumstances that's doable.

19 MR. HARPER: And we are doing that on the
20 processing side.

21 CHAIRPERSON BRICKEY: Right. All right.

22 MR. PIERCE: So am I hearing that there

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1 may be a provision that we can categorically submit
2 materials for review?

3 CHAIRPERSON BRICKEY: I don't think you
4 heard that.

5 MS. BURTON: I don't think that under the
6 rule we can do without a petition. We have to have a
7 petition. We may be able to alter that process
8 basically is what we're saying.

9 CHAIRPERSON BRICKEY: Thank you, Jim.

10 MR. PIERCE: Thank you.

11 CHAIRPERSON BRICKEY: We need to interject
12 at this point that we have some guests from the
13 department who are going to meet and greet us and
14 hopefully talk with us a little bit. So we need to
15 pause in our comments.

16 (Pause in proceedings.)

17 CHAIRPERSON BRICKEY: I'd like to
18 recognize Ken Clayton.

19 MR. CLAYTON: All right. How do I do
20 this?

21 (Laughter.)

22 CHAIRPERSON BRICKEY: You're good at this.

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1 You'll figure it out.

2 MR. CLAYTON: I am Ken Clayton, Associate
3 Administration in the Agricultural Marketing Service.

4 It's good to see you.

5 PARTICIPANT: Ken, Ken, I'm sorry.

6 MR. CLAYTON: Do I need to go to the mic?

7 PARTICIPANT: Yeah.

8 MR. CLAYTON: All right, all right.

9 PARTICIPANT: That way we'll get you on
10 record.

11 MR. CLAYTON: Oh, well.

12 (Laughter.)

13 CHAIRPERSON BRICKEY: See what I mean,
14 Ken.

15 MR. CLAYTON: You just set me up, didn't
16 you?

17 Well, good morning to the Board and to our
18 audience. I am Ken Clayton, Associate Administrator
19 of USDA's Agricultural Marketing Service.

20 With me this morning, I have some
21 important guests that I would like to introduce to
22 you, and I think one of them at least will have some

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1 words of welcome to offer to the Board and to those
2 who are duly assembled here today.

3 Let me just introduce some folks first,
4 and then I'll relinquish the microphone here in just a
5 second.

6 First, let me introduce to everybody my
7 immediate boss, Mr. A.J. Yates, who is newly appointed
8 as the Administrator of USDA's Agricultural Marketing
9 Service. To A.J.'s right is Dr. Jim Butler. Jim is
10 newly appointed as our Deputy Under Secretary for
11 Marketing and Regulatory Programs, which is the
12 mission area of which AMS is a part.

13 And last, but not least Mr Bill Hawks.
14 Bill is our Under Secretary for Marketing and
15 Regulatory Programs.

16 Bill, I'll offer you the microphone.

17 MR. HAWKS: Thank you.

18 Will this work? Can I do it like this and
19 carry it? Will this do it?

20 No, not going to work.

21 I, like Ken, am reluctant to have my back
22 to anybody.

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1 (Laughter.)

2 MR. HAWKS: Maybe I can talk loud enough
3 to --

4 CHAIRPERSON BRICKEY: Mr. Hawks, in
5 Washington that's a good way to think.

6 MR. HAWKS: Boy, isn't it just like an
7 Under Secretary to come in and screw everything up?

8 No, I would just like to, you know,
9 welcome you here. Actually you all have been
10 functioning for quite a while. I understand your role
11 as advisors to the Secretary, and we certainly take
12 that very serious.

13 We appreciate all of the work that the
14 Board is doing, has done, and continues to do.

15 I certainly am delighted to see this many
16 in the audience. I will be very candid with you. I
17 was surprised when I came over and had such a large
18 group of observers here, if you will.

19 So you know, I grew up on a farm in
20 Mississippi and have been here since actually in
21 mid -- April. I was actually sworn in on May the 24th
22 as Under Secretary for Marketing and Regulatory

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1 Programs.

2 I had the opportunity to visit around the
3 country quite a bit, visit with people as they come in
4 here to Washington, to our offices as well, and just
5 look at this as another opportunity to meet with
6 another group of constituents, if you will.

7 One of the things you'll find out about me
8 is I believe in getting people together. I believe in
9 putting all of our issues upon the table, you know,
10 and those of you that have heard this, close your ears
11 because you're going to hear it a lot more.

12 You know, one of my beliefs is that you
13 bring everybody together, put all of your issues upon
14 the table. Those issues that you immediately agree
15 on, you take them off. You don't have to deal with
16 that anymore, and then we continue to discuss those
17 that we have some kind of disagreement on and work to
18 a solution that is acceptable to everybody.

19 Sometimes that's not always possible. We
20 don't always reach that consensus position, but we
21 have to reach the position that we can work together.

22 So having said that, I'd just like to

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1 reiterate the fact that I want to, you know, work with
2 you all. I am here to do that. I have an open door
3 policy, despite the fact that I'm reluctant to put my
4 back to anybody.

5 (Laughter.)

6 MR. HAWKS: I do have an open door policy
7 and am just delighted that you all are here. I'm
8 delighted to have this opportunity to serve our
9 country as the Under Secretary of Marketing and
10 Regulatory Programs.

11 And I'd be remiss if I didn't mention the
12 fact that, you know, this country changed on September
13 the 9th. There's no question in my --

14 PARTICIPANT: Eleventh.

15 MR. HAWKS: I mean September the 11th.
16 Nine/11 is what I meant to say.

17 And you know, I thought that was rather
18 ironic when I was driving to work that day and I
19 realized that it was nine, one, one, and then when
20 that first plane hit the tower in New York, we thought
21 what a coincidence that that happened. That was the
22 initial thought. And then when that second one hit,

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1 you know, we obviously realized what was transpiring
2 and then subsequently the Pentagon.

3 But I have never in my life seen an event
4 that has unified any nation more than this has. So I
5 like to talk about we take an opportunity to make
6 lemonade out of lemons, and I certainly think that's
7 what has happened with this country.

8 We're more united. We may have
9 differences of opinion on certain issues, but we're
10 united as a country and as a people. So I think that
11 we're gaining some benefits out of that, and it's
12 really sad that I have to say that, but I think that
13 applies to all of us as well.

14 So with that said, God bless you all. God
15 bless America, and we are a family.

16 There's another thing that you'll hear me
17 saying, is that faith and family is what matters most
18 in life, and we at USDA are all a family.

19 Thank you all.

20 CHAIRPERSON BRICKEY: Thank you so much
21 for coming.

22 (Applause.)

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1 MR. YATES: Well, I originated in
2 California and have had the opportunity to work with
3 Diane and many others in the organic community there.
4 I've really enjoyed and I look forward to working
5 with all of you in my time here with USDA.

6 So I have an open door policy, and you're
7 welcome to meet with me whenever you're in town. Just
8 give me a call where you'll know that I don't have
9 somebody else in there at the time, but Diane knows
10 that from my past experiences, and I do look forward
11 to working with you on the issues. So come see me.

12 CHAIRPERSON BRICKEY: Thank you. Thank
13 you all very much.

14 MR. HAWKS: You're welcome.

15 MR. YATES: You all had better get back to
16 work now, right?

17 MR. HAWKS: That's right.

18 MR. YATES: Just got a couple of things to
19 do, right?

20 (Laughter.)

21 MR. YATES: Take care.

22 MR. HAWKS: Thank you all.

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1 (Applause.)

2 CHAIRPERSON BRICKEY: Under duress and
3 compulsion, I'm going to have to give my Board a five-
4 minute break. So we will resume in five minutes.

5 (Whereupon, the foregoing matter went off
6 the record at 10:46 a.m. and went back on
7 the record at 11:00 a.m.)

8 CHAIRPERSON BRICKEY: Morris Preston?
9 Nancy Cook?

10 I'm serious here, folks. We've got to get
11 going.

12 MR. SIDEMAN: Would you like to borrow my
13 voice?

14 CHAIRPERSON BRICKEY: Yes, can I borrow
15 that?

16 MR. SIDEMAN: Listen. We've got to get
17 started again.

18 CHAIRPERSON BRICKEY: Let's start with
19 Michael Slye.

20 MR. SLYE: I note you do not have a quorum
21 yet.

22 CHAIRPERSON BRICKEY: You can note that,

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1 but we're going to get started.

2 MR. SLYE: While I stall for a little bit
3 of a quorum, I want to note that the handout that you
4 submitted to the public, I believe, is missing a page
5 on methionine. So if you guys could --

6 CHAIRPERSON BRICKEY: Okay.

7 MR. SLYE: It may confuse people because
8 it's only half of your methionine recommendation.

9 CHAIRPERSON BRICKEY: Okay. If you could
10 show that to Catherine after your remarks.

11 MR. SLYE: I will. I will.

12 CHAIRPERSON BRICKEY: I do want to
13 recognize Michael Slye who's the former Chair of this
14 Board, and I want to recognize him for as much time as
15 he may require.

16 MR. SLYE: Well, thank you for this
17 opportunity, and I'm delighted to be here,
18 particularly in a former NOSB capacity.

19 I want to bring about five or six issues,
20 areas to the Board today. First I want to stand by my
21 testimony in Lacross, particularly our recommendation
22 on methionine pasture and the farmers on certification

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1 boards. We'll be glad to resubmit that testimony if
2 it's important to the Board to refresh their memory on
3 our positions from the Lacross meeting. I'd be glad
4 to resubmit it.

5 We're very concerned that a number of the
6 accreditation issues that were brought to you by Lyn
7 Cody are extremely urgent. It is our view that the
8 quality manual and the audit checklist desperately
9 need to be in place to the applicants prior to
10 application deadline in order for them to be able to
11 ferret through the system in a fair and consistent
12 manner.

13 I think also I want to bring the issue of
14 the peer review, that I urge you to rapidly put the
15 peer review panel in place. I believe it is important
16 not -- excuse me. I believe it's important that the
17 peer review panel be in place early in the process
18 because, as I understand their role, it's not just to
19 look at the end product, but it's also to look at the
20 procedures.

21 So if you're looking at something in
22 April, I urge you to expedite it, getting the peer

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1 review panel in place so they can be of utmost help to
2 you through this especially beginning application
3 process.

4 The next issue I want to bring to you is a
5 concern about the grower group issue. In my capacity
6 as the Rural Advancement Foundation International, we
7 were very concerned that many farmers outside the
8 United States, particularly in places like Latin
9 America and Africa, particularly in countries where
10 there is not a government-to-government opportunity,
11 which I would say in many cases in Latin America with
12 grower groups there will not be that opportunity.

13 There is a solid private sector protocol
14 on how grower groups get certified and accredited in
15 the private sector. We would like to submit that
16 language to the NOSB. We believe that currently the
17 way the rule is written there is an opportunity to
18 recognize grower groups, particularly small grower
19 groups outside the U.S.

20 We do not want to have very limited
21 resource farmers move this to a very valuable market
22 in the north. We think that it is possible, but we

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1 need the NOSB to take guidance and weigh in on what
2 those would be.

3 The key to grower groups is that they have
4 a solid internal control system. That's the key in
5 understanding that puzzle, is that you have to think
6 that they have a system inside that inspects each of
7 the farms.

8 So the accreditation system is looking at
9 that, the rigor of the internal control system and
10 keeping in mind that an individual operation or an
11 operation unit would be considered an association as
12 opposed to an individual one person. That's part of
13 the thinking there that helps you through the grower
14 group issue.

15 CHAIRPERSON BRICKEY: I have a lot of
16 familiarity with this concept through pesticide
17 regulation. So I'd be very interested to see that.

18 MR. SLYE: Okay. So we'll be glad to
19 submit that to you as soon as I get back to my office.

20 The next issue that unfortunately during
21 the early period of the NOSB we had on our docket to
22 provide additional advice to the department on the

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1 question of equivalency. We were unable to get to the
2 issue of equivalency, and I urge this Board to get to
3 that issue as now we are approaching where the rubber
4 will hit the road regarding this.

5 And I would suggest in thinking through
6 the issue of equivalency that you think about it in
7 terms of both a GAAP analysis, which would require
8 looking at not only the standards on both sides of the
9 parties; also the regulations; also the principles, as
10 well as looking at an impact analysis of what would
11 the impact of these differences be on domestic growers
12 and on the trade, and that we must find a balance in a
13 way that is very clear so that equivalency is based on
14 a very sound set of both GAAP analysis and impact
15 analysis.

16 The next issue that I want to bring to
17 your attention is the fact that the farm bill process
18 is underway, maybe.

19 (Laughter.)

20 MR. SLYE: And that there is a package of
21 farm bill related items for the organic industry.

22 CHAIRPERSON BRICKEY: Maybe.

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1 MR. SLYE: Well, the package, I mean, has
2 been taken onto the Hill by the Organic Trade
3 Association and by the Campaign for Sustainable
4 Agriculture.

5 We would be glad to insure that this body
6 has seen those materials for your interest and know
7 that it addresses many of the concerns that the Board
8 has wrestled with over time, including research as
9 well as a cost share for certification.

10 So we would be glad to supply the Board
11 with those materials if you so wish.

12 MR. RIDDLE: You will be able to supply
13 them during the next two days?

14 MR. SLYE: Yes, yes.

15 MR. RIDDLE: That we're here?

16 MR. SLYE: Yes, we could. Maybe it would
17 have to be a FedEx, but we could get you a package,
18 would be glad to do that.

19 The next issue that I want to bring to
20 your attention, and I recognize that the window that
21 you find yourselves in in regards to the petition
22 process, in regard to materials development, we had an

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1 opportunity at the beginning of this process prior to
2 the petition process being in place to say what is
3 standard in the industry today and look at the
4 materials that were already in play by the
5 certification community.

6 I think since the petition process has now
7 been in place, you're under a different set of
8 constraints as to how you approach this issue, and I
9 do urge you that I caution you not to change the rules
10 in mid-stream. We have to not fall into any tales of
11 arbitrary and capricious. I mean we must be able to
12 show that it was a consistent treatment of all
13 applicants for materials for materials and where you
14 avoid train wrecks of another kind as we go down the
15 pike.

16 I don't have the answer to your conundrum
17 regarding a new wave of materials that have now
18 finally risen to the surface other than to say that
19 you must be consistent in the process and keep in mind
20 that you do have the cause of reevaluating within five
21 years of your implementation date.

22 So that is something that you can look at,

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1 is if you feel like the process later on is not
2 working, but I think this class needs to be all
3 treated consistently.

4 And then I think regarding the issue of
5 transition, we have spent a lot of time looking at
6 this transition question both in terms of a label,
7 also in terms of transitioning conventional farmers
8 into organic and also the idea of there being a
9 category of transitional, and I would urge the Board
10 that there are different issues here, and that they
11 are not all the same, and that CODEX has weighed in on
12 transitional.

13 Europe has a definition of transitional,
14 and I think that you need to divide those issues out
15 and look at them separately.

16 There's the idea of a conventional farmer
17 transitioning into organic and what does that look
18 like. How is that help provided? What is that
19 process?

20 There is the debate about whether you have
21 transitional label, which I think is a different
22 conversation, and then you have this piece which is:

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1 what is a transitional? If you had a label, who is a
2 transitional farmer and what does that constitute?

3 CODEX says it's just the three years or
4 whatever the period is between using prohibited
5 materials and coming on line. It's a very narrow
6 definition. So I think you need to carefully ferret
7 through those different components of a transitional
8 idea.

9 And finally, I do urge that regarding the
10 TAP process, that central to the NOSB statutory
11 mandate is oversight of the materials review. This is
12 central to your statutory authority. I urge you to
13 take a hands on approach to insuring that there is a
14 very clear and transparent protocol of how this
15 process takes place both in terms of the department
16 seeking RFP guidance for TAP reviewers. I think you
17 should be a part of the decision tree architecture at
18 least in the advise and consent role. I think this is
19 important because you are really required to do this
20 statutorily, and I think for your protection and for
21 the public transparency, urge you to be very hands on
22 in this process and insure that it's carried out in a

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1 consistent manner.

2 And finally, I urge you not to lose sight
3 of the big picture, that your job is to maintain and
4 preserve organic integrity, especially in the face of
5 many of the micro management and details of organic
6 agriculture.

7 Utmost we want to preserve consumer
8 confidence and preserve organic integrity.

9 Thank you for your time today.

10 CHAIRPERSON BRICKEY: Thank you.

11 MR. RIDDLE: I have two quick questions,
12 hopefully.

13 MR. SLYE: Sure.

14 MR. RIDDLE: Your comments on the petition
15 process, and you mentioned how the NOSB way back when
16 kind of jump started by submitting a list of things to
17 begin with.

18 What's your opinion when there's a new
19 sector coming on board, such as the aquaculture? You
20 know, the task force report contains a list of things
21 that should be prioritized because without those being
22 reviewed and operators knowing the status, really the

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1 standards are worthless.

2 So how do you feel about them as a new
3 sector and the Board's ability to kind of jump start
4 the review process in that way?

5 MR. SLYE: Well, I think to a certain
6 extent you do have a point there. Certified organic
7 livestock, we didn't have certified organic livestock
8 at that time. We also didn't have the aquaculture
9 questions. We didn't have many of those to have them
10 come to the top.

11 I would have to give that some more
12 thought, but there may be some wisdom in looking at a
13 category that was not on line at the time of the
14 original investigation. That may be one way you could
15 approach it, but I would have to give it some more
16 thought.

17 MR. RIDDLE: Okay.

18 MR. SLYE: Because I am concerned that the
19 people who duly put forward their petition and were
20 either denied or approved, and then if you have a
21 different group that really did neither of those, I
22 think we have to find a way to consistently treat all

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1 three of those classes.

2 MR. RIDDLE: And then the other thing is
3 on the transition label, the Crops Committee is
4 putting forth a recommendation, but it will be posted
5 for public comment. There won't be, you know, a final
6 vote at this meeting, is my understanding.

7 Do you have any specific comments on that
8 at this time? I found your comments intriguing, but
9 not something I could just chew on. Do you have
10 anything more specific on that language, you know?

11 Are we off base with where we're headed on
12 the transitional label and the requirements that are
13 being proposed?

14 MR. SLYE: I guess what I'm trying to say
15 is that given at least some of the debate that has
16 happened around the question of transitioning
17 conventional farmers to organic outside of this, that
18 we need to keep that in mind, that that is, indeed, a
19 different set of problems, and that we also need to
20 keep in mind the international normals related to a
21 class of farmers who are called transitional and what
22 their, you know, status entails.

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1 And then the labeling of it is yet an
2 additional issue that needs to be thought carefully
3 about in terms of consumers' acceptance and
4 understanding.

5 Personally, my organization is very
6 supportive of building a longer runway for farmers to
7 get access to value added marketplaces, and we are
8 supportive of this as a general approach, but we do
9 not want to either do this in a way that the farmers
10 who come out at the end of that pipeline are ill
11 prepared, given their act in the organic marketplace,
12 or that they damage the existing marketplace in terms
13 of supply and demand and the pioneers, so to speak,
14 who have gone in this direction in the marketplace.

15 So it's a delicate balance in terms of the
16 timing. Some of the models I've seen in Europe where
17 it's an intensive kind of peer review or not peer
18 review. Excuse me. I've got that on the brain. A
19 peer based mentor system where you hook up, link up
20 existing certified farmers with farmers who are
21 interested in making the transition so that in a way
22 they pair up to insure that they not only learn about

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1 what are the proper crops to go into from a market
2 opportunity, but they also learn about the philosophy
3 and the details of management.

4 It's not intuitive to make a transition
5 from the conventional to organic. It's just not that
6 simple. You can't just take the book and get there
7 necessarily. So I think it has to be an intensive,
8 very carefully thought through process in order to
9 have success at the other end.

10 CHAIRPERSON BRICKEY: Not to put you on
11 the spot, comma, but will you be giving us some
12 comments on this based on our proposal that's out
13 there?

14 MR. SLYE: And your deadline is when?

15 CHAIRPERSON BRICKEY: What's our deadline,
16 Jim?

17 (Laughter.)

18 CHAIRPERSON BRICKEY: That's it for your
19 end of the table.

20 MR. RIDDLE: Yeah, I know. I thought
21 really it was a 45-day turnaround, is what -- but some
22 things haven't been posted giving us that window.

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1 CHAIRPERSON BRICKEY: Has the comment
2 period expired on this transition?

3 MR. RIDDLE: Yeah, when something gets
4 posted on the Web site before -- you know, how that
5 date gets set of when we want comments back by --

6 MR. MATHEWS: That's up to you.

7 CHAIRPERSON BRICKEY: We'll get back to
8 you on the date.

9 MR. SLYE: Well, okay.

10 CHAIRPERSON BRICKEY: We do want your
11 comments.

12 MR. SLYE: Okay. I'll be glad to provide
13 that.

14 CHAIRPERSON BRICKEY: Thank you.

15 MR. RIDDLE: We heard OTA wanting a 45-day
16 window as standard procedure.

17 MR. SLYE: Okay. Well, I certainly won't
18 ask for anything outside of that.

19 Thank you very much.

20 MR. BANDELE: I just have one quick
21 comment. I happened to be chairing a few weeks ago
22 from El Salvador and Honduras in which there were

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1 meetings involving farmers interested in organics. So
2 I'm really interested in that international aspect. I
3 can get with you on that as well.

4 MR. SLYE: I'd certainly be glad to talk
5 with you about it.

6 MR. LOCKERETZ: The last two people
7 mentioned the quality manual, and I had inquired of
8 you on behalf of the Accreditation Committee a few
9 weeks ago on where things stood in development of
10 that. Could you just quickly tell us?

11 MR. MATHEWS: I think I will save it for
12 my presentation.

13 MR. LOCKERETZ: Okay.

14 CHAIRPERSON BRICKEY: Thank you.

15 MR. SLYE: Keep in mind that I think ISO
16 actually links the quality manual in the time line so
17 that looking at ISO may be helpful in thinking about
18 how the main one fits in.

19 Thank you.

20 CHAIRPERSON BRICKEY: Thank you.

21 Dr. Kean?

22 David Engel?

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1 MR. ENGEL: Good morning. My name is
2 David Engel. My wife Mica and I are in southwest
3 Wisconsin with our four children. We're dairy
4 farmers. Two of my boys do vegetables also, trying to
5 see how they might fit into farming.

6 We've always farmed organically. We've
7 been certified since 1988. My wife is a practicing
8 holistic veterinarian, and I've been a program
9 director for the Wisconsin chapter OCI No. 1 since
10 1989, and I'm presently also the Executive Director of
11 Midwest Organic Services Association since 1999.

12 These two programs have approximately 480
13 producer operators and 20 processor operators
14 combined. My comments this morning are on behalf of
15 these operators in both of the organizations as well
16 as from the perspective as a dairy farmer.

17 I want to respectfully but sincerely
18 acknowledge the collective efforts of you and all of
19 us in the organic community and others that have
20 brought us to our present stage of success.

21 They say there are six stages to a
22 project: enthusiasm, disillusionment, panic, search

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1 for the guilty, punishment of the innocent, and praise
2 and honors for the nonparticipants.

3 (Laughter.)

4 CHAIRPERSON BRICKEY: Where do you suggest
5 that we are on that?

6 (Laughter.)

7 MR. ENGEL: For myself, I have been in the
8 enthusiastic stage with perhaps just a smattering of
9 the disillusionment, the second stage.

10 Yet we all know that the value of anything
11 is in direct proportion to the effort that we all
12 make for it, and we are close to obtaining our first
13 long worked for goal, that of the full implementation
14 of the NOP.

15 And then we will all have the privilege of
16 maintaining our efforts.

17 My comments are primarily those five
18 listed on the sheet here. The first four have to do
19 with process, and the last one has to do with
20 particularly specific aspects of the rule.

21 The organizational structure issue, the
22 so-called COI issue, conflict of interest, I'm not

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1 going to read what I've written there. It's quite
2 lengthy, but please read it, and I would submit that
3 the system that most operators have today,
4 organizations -- I'm sorry -- would meet, would
5 provide sufficient firewalls to insure that there
6 would not be undue influence taking place from the
7 Board level.

8 Secondly, to date it is our understanding
9 that the NOP does not have an ISO-61 compliant program
10 manual in place to guide them in applying the
11 accreditation principles, and criteria for which they
12 are responsible, and we trust that the NOP and the
13 NOSB are sensitive to the appearance which this gives
14 to all involved, particularly the certification
15 agencies, and that you are sensitive to the fact that
16 the rule requires compliance with ISO-61, and that you
17 are both working as hard to put this program manual
18 and criteria in place as we, the certification
19 agencies, have been working to complete and send our
20 quality systems in.

21 One of the things that such a program
22 manual could have provided to us would have been a

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1 comprehensive application form of checklist which
2 would have been very helpful.

3 In the absence of this program manual, we
4 trust that the application from the certification
5 agency will be assessed in a fair and consistent
6 manner, and that the NOP's accreditation process will
7 result in a credible and well accepted regulatory
8 success.

9 Such an outcome would bode very well for
10 the equivalency efforts that the NOP is presently
11 making as well.

12 Third, similarly, with the absence of a
13 peer review panel, a statutory body meant to facilitate
14 and be an integral part of the accreditation process
15 at the NOP, this is of concern. Please expedite the
16 appointment of this body as soon as possible.

17 Without the peer review panel replaced,
18 neither the letter of the law nor the spirit or intent
19 of the purpose of this will have been met.

20 In addition, as above, the overall
21 validity of the NOP's accreditation effort will be
22 compromised without this peer review panel in place.

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1 It has come to our attention that two TAP
2 review contracts has recently been earlier awarded in
3 addition to the renewal of the current OMNI TAP review
4 contract. There appears to be a question concerning
5 the propriety of the process with which these
6 contracts were awarded, and we request that the NOSB
7 look into this concern, assess it, and if due process
8 was not employed, then we request that the situation
9 be rectified to the NOSB's satisfaction.

10 Finally and more from my perspective as a
11 dairy farmer, but also representing two major -- not
12 major -- a significant body of livestock producers, I
13 wrote to you recently, and the letter is attached to
14 the handout there regarding the efforts to clarify the
15 access to pasture requirement of the rule. You are
16 stating that a significant amount of the nutritional
17 requirement for ruminant during the growing season
18 must come from pasture, and I attached to my letter to
19 you, again, for the record.

20 I would again remind you that the presence
21 of the word "significant" will be difficult for the
22 different certification agencies to apply consistently

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1 and equally, and it will be even more difficult for
2 many producers to meet.

3 On the issue of livestock supplements,
4 which has to do --

5 PARTICIPANT: Time.

6 CHAIRPERSON BRICKEY: Thank you.

7 MR. ENGEL: Thank you.

8 MR. BANDELE: Do you have another copy of
9 your remarks?

10 CHAIRPERSON BRICKEY: Ming Tanquil?

11 Morris Preston?

12 Nancy Cook?

13 MS. COOK: Good morning, ladies and
14 gentlemen, and thank you for allowing me to
15 participate this morning.

16 I have the somewhat enviable task of
17 representing both the industry this morning and the
18 regulators. I know that's pretty hard to believe, but
19 that's an interesting position to be in.

20 I'm Nancy Cook. I'm Vice President for
21 Technical and Regulatory Affairs for the Pet Food
22 Institute. We represent the manufacturers of about 95

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1 percent of the product that's in the marketplace
2 today. We represent large, multinational
3 manufacturers, but also small, Mom and Pop type
4 groups, and folks who are interested in various and
5 sundry niche markets.

6 We recognize as you all do that there are
7 some various interpretations of whether or not organic
8 really means organic in the pet food marketplace. We
9 have petitioned Dr. Clayton and Secretary Venneman to
10 move forward with an interpretation of your rule that
11 tells us whether or not pet food is covered under the
12 rule.

13 We believe it to be, but there was a
14 little bit of a conundrum in the application of the
15 language as written.

16 I'm very pleased to indicate that our
17 consolidated group, the American Feed Manufacturers or
18 -- excuse me -- the Pet Food Manufacturers
19 Associations, consisting of APPMA, the American Pet
20 Products Manufacturers Association, the Pet Food
21 Institute, the Association of American Feed Control
22 Officials, the American Feed Industry Association,

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1 and the National Grade and Feed Association, which
2 covers virtually all of the marketplace in the product
3 produced in the about 11 and a half to \$12 billion
4 industry the we're in, have come together and asked
5 that we not only determine whether or not pet foods
6 are covered, but that we also come together with
7 members of the organic trades to determine what we can
8 do to make our rules fit.

9 The Association of American Feed Control
10 Officials have been in place since about 1909. They
11 were established to develop regulatory programs
12 internationally, well, nationally first and then
13 internationally, which are consistent in their
14 application for livestock feed and in 1962, actually
15 before the livestock rules were completely finished,
16 the pet food rules went into place.

17 We have very specific requirements for how
18 pet foods may be labeled. We have very specific
19 requirements for safety, for nutrition, and for truth
20 in labeling that are covered both under USDA rules and
21 FDA rules, and under each individual state.

22 What we'd like to do is to be able to work

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1 with the National Organic Standard Board and with the
2 trade associations to be able to pull those rules
3 together so that they mean the same thing for you all
4 and for your customer as they do for us and our
5 customers.

6 So thank you for the opportunity to visit
7 with you here today. I'll be around for a little bit
8 to answer some questions, and then I have to go learn
9 about Lindberg this afternoon.

10 So thank you very much.

11 CHAIRPERSON BRICKEY: We're definitely
12 going to be more fun than your next meeting.

13 (Laughter.)

14 MS. COOK: I don't know about that.

15 CHAIRPERSON BRICKEY: Thanks very much.

16 MS. COOK: Thank you very much.

17 And I want to comment on three folks that
18 I've found that have been really helpful. Mark
19 Keating has done an outstanding job representing NOSB
20 to the folks at AFCO. I've been working with Emily
21 Rosen and then hooked up with Kelly Shea today, and
22 we'll be working on those issues.

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1 I notice in one of the handouts that the
2 complete letters were not included. Mark tells me
3 that the Board is in good shape there, but we have
4 some extra copies here for everybody so you can see
5 where we are.

6 CHAIRPERSON BRICKEY: Thank you.

7 MS. COOK: Have a good day.

8 CHAIRPERSON BRICKEY: Randy Gordon?

9 MS. COOK: I'm sorry. I should have --
10 Randy was called away this morning, but he again is
11 part of that group that I just represent.

12 So thank you.

13 CHAIRPERSON BRICKEY: Thank you.

14 Shannon Peak.

15 DR. PEAK: I'm Dr. Shannon Peak from Novus
16 International. My associate, Dr. Julia Dibnar spoke
17 with you at your last meeting regarding our product,
18 Alamet, which is used as a supplemental methionine for
19 animals.

20 Today I just want to briefly talk about
21 methionine metabolism and, again, emphasize the
22 importance of methionine in poultry rations.

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1 In my position, I work directly with
2 nutritionists and with growers helping them formulate
3 diets and use methionine. So I think I'm qualified to
4 comment on this.

5 As you know, methionine is an amino acid.
6 IT's one of 22, but methionine is an essential amino
7 acid, meaning that the animal cannot produce it
8 itself. It must obtain methionine through feedstuffs.

9 When methionine or other essential amino
10 acids are not available to the animal, it must break
11 down protein currently in the body to meet those
12 methionine requirements, and this more times than
13 often results in a net body weight loss.

14 If we briefly follow a methionine molecule
15 through the animal, it comes in through the feed.
16 It's absorbed through the digestive tract, but the
17 animal does not distinguish between a supplemental
18 methionine source or a methionine that's obtained
19 within the feed, such as corn or soy or those types of
20 things.

21 Once in circulation the binding is
22 available for all cells, and it must be available for

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1 each cell to produce protein.

2 If we recall, once in the cell the
3 methionine is the symbol using the messenger INA in
4 conjunction with the rhizomes. You probably have to
5 go way back to your biology classes, but the net
6 result is a protein molecule.

7 And again, if one of the essential amino
8 acids is missing, protein cannot be synthesized within
9 that cell without first degrading the body protein
10 reserves.

11 The current feedstuffs available in the
12 U.S. for organic production would require feeding very
13 high levels of intact crude protein, and what that
14 means is that the amino acids are assembled already
15 into protein molecules, and the animal has to break
16 down that crude protein to get the methionine
17 molecule, and this, in essence, is what they did in
18 that study that was presented to you earlier today.

19 These high levels of protein must be fed
20 in order to have a net production of growth, as
21 opposed to a net production of weight loss, and there
22 are a number of physical problems associated with

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1 supplying amino acids in the intact form, such as the
2 ammonia burns that you saw, the lesions on the feet,
3 as well as others.

4 I've read the Board's comments on
5 alternative high methionine ingredients, but it is
6 very difficult to use these ingredients in a balanced
7 feed formulation. Even though the methionine is
8 there, it is not easily digestible, meaning that the
9 animal can't easily extract the methionine from the
10 molecules.

11 Even these products can only be supplied
12 to certain levels and without it affecting meat
13 quality or the animal's health.

14 So, in summary, I would just like to say
15 that for now I think that methionine should be allowed
16 to continue to be used in organic feedstuffs.

17 And I will be sticking around through the
18 discussion if you have any questions about methionine
19 or those types of things.

20 CHAIRPERSON BRICKEY: Thank you.

21 Cameron Smoke.

22 MR. SMOKE: Madame Chair and members of

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1 the committee, I appreciate this opportunity, and for
2 the purpose of expressing concern about the
3 availability of organic ingredients and the need that
4 the National Organic Standard Board provide the
5 inability of organic biostock producers to obtain
6 adequate feedstocks, I offer the following comments.

7 At current production levels of items of
8 feed ingredients to sustain viable animal operations
9 are not available in the formation of rules concerning
10 the feeding of animals, the NOSB should include
11 provisions which allow operations to continue
12 production when adequate feedstocks of organic origin
13 are not commercially available.

14 The item concerning the acreage of corn
15 and soybeans that could be allocated to animal feed is
16 very difficult, of course, to obtain. There's
17 evidence that sufficient portions of grains produced
18 that are organic will go directly to the human food
19 production.

20 Contacts have been made with the USDA, as
21 well as numerous national organic research groups that
22 comprise organic feedstuffs. Accurate numbers of

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1 organic corn and soybean acreage and yields were
2 unavailable.

3 Notwithstanding adequate supplies are not
4 available to producers who wish to produce organic
5 meat and poultry, it is evident that the National
6 Organic Standard Board should address a means by which
7 producers can continue to operate based upon
8 commercially available feedstuffs.

9 A view of the amount of organic crops that
10 were available in 1997, as well as estimates for
11 subsequent years reveal the supplies of feedstuffs
12 will not and still are not adequate to sustain viable
13 meat and poultry operations.

14 The Economic Research Services of the USDA
15 reported that there were 42,703 acres of certified
16 organic corn and 42,143 acres of certified soybeans
17 available for the market.

18 The same report shows there were 537 hens
19 in production, as well as 38,000 broilers produced in
20 the U.S. market in 1997. The acres that were
21 indicated in this report were primarily consumed by
22 industries, again, producing food for human

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1 consumption. This usage will leave only minimum
2 amounts to feed animals being produced in organic
3 programs.

4 Several experts and consultants in the
5 organic food industry estimated that less than ten
6 percent of the total grain production is available for
7 feeding animals. The 537,000 layers and 38,000
8 broilers that were produced organically in 1997 would
9 have required 120 percent of the organic corn
10 production and 49 percent of the organic soybean
11 production for the 1997 crop year.

12 The U.S. Department of Agriculture has
13 projected that organic production acres has increased
14 by as much as 38 percent since 1997. It is estimated
15 there are 58,930 acres of corn and 113,357 acres of
16 soybeans produced organically in 2001 about projecting
17 these USDA numbers.

18 Again, experts estimate less than ten
19 percent of the organic crop production of corn and
20 soybeans has been available to feed these animals.

21 The numbers of broilers produced weekly in
22 the U.S. in 2001 has been estimated by nutritional

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1 consultants and industry experts to be 400 to 500,000.

2 Comparing this number with the number of laying hens
3 producing organic eggs in today's market, 28,000 acres
4 of corn and 30,100 acres of soybeans are required to
5 meet the current needs to produce organic poultry
6 alone.

7 Moderate growth numbers for the year 2001
8 can be easily extrapolated and substantiated that
9 organic production of corn and soybeans would be only
10 20 percent and 38 percent of the needs respectively.

11 The estimates and numbers of available
12 acreage continue to substantiate a shortage of
13 available feedstocks and specifically organic
14 ingredients. The failure to address the situation by
15 allowing organic production based on commercial
16 availability could ultimately result in the collapse
17 of organic meat and poultry production.

18 The International Trade Center estimates
19 the market potential for poultry products to be five
20 percent of U.S. production within three years. To
21 accommodate that, a relatively small percent of the
22 market, 360,000 acres of corn and 712,000 acres of

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1 soybeans would be needed to harvest each year.

2 In order to expedite the amount of organic
3 cropland that is needed today and into the near
4 future, consideration should be given to land that has
5 already been laid out for over three years in
6 government set-aside programs.

7 PARTICIPANT: Time.

8 MR. SMOKE: By allowing the certifying
9 agent to verify the integrity of the land, waiving the
10 three-year transitional period, farmers could
11 immediately begin processing the process of fulfilling
12 the crop shortage that exists today.

13 Thank you.

14 CHAIRPERSON BRICKEY: Thank you.

15 Dave Wicker.

16 MR. WICKER: Good morning. My name is
17 David Wicker. I'm in charge of raising live poultry
18 for Hilldale Farms in Baldwin, Georgia.

19 And this morning I'd like to address
20 having poultry free access or access and raising
21 poultry on range.

22 Allowing poultry access to pasture or free

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1 range is not in the best interest of the bird, the
2 organic producer, or the consumer of organic products.

3 Dr. Klopp addressed some of this. I'm going to be
4 brief in some of my remarks. He's addressed some of
5 them already.

6 Four major reasons: disease and
7 parasitism; the environment that's out there;
8 predators; and very importantly, biosecurity and food
9 safety as a last issue.

10 The first one is disease and parasitism.
11 I'm not going to cover the ones that Dr. Klopp had
12 covered earlier. Considielsis is a major problem. We
13 can vaccinate for it. In a house I can control it.
14 Our on a range where I've got more soil conditions,
15 it's very difficult to control.

16 With regular birds you can control it with
17 chemicals. We can't key these to organic birds. I
18 have to use a vaccine. If you get toxicosis, you'll
19 have stomach birds, high mortality, intestinal
20 problems. You can't market that bird, and
21 particularly you can't market it if it's dead. So it
22 causes tremendous problems.

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1 Second, when we covered AI, there's
2 another infectious disease out there,
3 laryngotracheitis, LT, and it's a virus. It's highly
4 infectious disease. This causes heavy mortality.

5 Some of the reservoirs are range birds.
6 In our part of Georgia, we're not organic birds, but
7 we do have roosters raised outside for fighting cocks.

8 A major problem. LT resides in these and spreads to
9 others.

10 Range birds will be exposed to wild birds
11 and will spread it to all birds. It causes high
12 mortality in the flocks, and other than vaccination,
13 there's no control over it.

14 The State of Georgia, before you can
15 vaccinate a flock, you have to have the State
16 Veterinarian's approval. So you just can't go out and
17 vaccinate all the flocks for LT.

18 Disease organisms are also. You have E.
19 coli, salmonella. There's been a recent report, and I
20 don't have a copy of it, published by Dr. Carl
21 Peterson, of the Royal Academy in Denmark where
22 they're raising birds organically outside, measuring

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1 levels of campylobacter on organic birds.

2 Organic birds raised outside have higher
3 levels of campylobacter as opposed to birds raised
4 indoors.

5 I also spoke to Dr. Densil Maurice with
6 the poultry group in Clemson University, Clemson,
7 South Carolina; a recent return from a six-month
8 sabbatical in Denmark observing poultry operations,
9 particularly organic poultry operations.

10 A major problem with birds on range is
11 keeping them in dry conditions. Even using heavy
12 applications of hay and straw, they're still exposed
13 to damp moist soil. So it is a problem when you have
14 poultry outside.

15 The second area is environmental extremes.

16 If you've been down to Georgia in August, it's 95 to
17 100 degrees outside, very, very hot. Our houses are
18 cooled. We can drop the temperature 12 to 15 degrees.

19 With a wind chill pulling air across it, we can drop
20 it 15 degrees and keep them comfortable. Out side
21 it's 100, 95 to 100 degrees.

22 Sometimes in the year the bird would not

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1 go outside. So we're going to raise an entire flock
2 inside.

3 Take the opposite in January in Minnesota.

4 It doesn't get above 32 degrees. The birds are not
5 going to be outside during that grow-out period.

6 The grow-out period is 35 to 49 days. So
7 the birds can be inside the entire time.

8 The third one I'd like to cover is
9 predation, and Dr. Klopp has already covered a lot of
10 that.

11 Early in my life I raised birds, and I can
12 assure you no matter how good your neighbor's dog is,
13 sooner or later he's going to be in that pen, and they
14 kill a lot of them, but they kill a lot more of them
15 by smothering them, driving them up against the fence
16 or in a corner of a building. A major problem.

17 And that's to say nothing of hawks, owls,
18 foxes, et cetera.

19 The third one I want to cover with you or
20 -- excuse me -- the fourth one I want to cover with
21 you is biosecurity. Most of us in the poultry
22 production have HASIP programs, biosecurity programs.

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1 Biosecurity first, where we limit access to the farms,
2 and that's easier to do when I have a locked house.

3 We get salesmen coming in. As much as you
4 can put a sign at the front of your farm, they will
5 still come in and spread disease.

6 If you've got poultry out on the range,
7 they'll have easier access to them. You have wild
8 birds spreading disease out there. You've got the air
9 currents bringing in disease, and LT is a bad one for
10 this as I mentioned earlier.

11 The other one, when a bird is in that
12 house, I can control what it eats, the bugs, et
13 cetera. In our own houses before we build them, we
14 analyze the soil for pesticides. You can't analyze
15 the soil everywhere for pesticides for birds on range.

16 And there are still fine levels of DDT
17 from cotton fields in Georgia 30 years ago. So it's
18 still out there.

19 The other one is vandalism. It's hard to
20 control vandalism out there, and with today's
21 biosecurity, our consumers are demanding a safe and
22 pure food supply. I can do that easier in an enclosed

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1 house.

2 With that I'll close and again ask you to
3 consider organic poultry, not allowing access to the
4 outside.

5 Thank you.

6 CHAIRPERSON BRICKEY: Thank you.

7 Steven Gray.

8 MR. GRAY: I'll bet you're glad to see me
9 because I'm the last on the list.

10 (Laughter.)

11 CHAIRPERSON BRICKEY: You're not.

12 MR. GRAY: Oh, I'm not?

13 CHAIRPERSON BRICKEY: You're not.

14 MR. GRAY: In February of 1999, the meat
15 and poultry products raised for organic markets were
16 allowed to apply the organic label. At this time the
17 production was less than one percent of the market.

18 Over the past two and a half years, the
19 amount of organically produced poultry alone has
20 increased from 40,000 birds a year to well over
21 400,000 birds a week. This demand for this product
22 has grown and will continue to grow over the next

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1 several years.

2 Today we are facing new problems in
3 meeting consumers' demand for this product, having the
4 ability source all of the necessary organic feed to
5 fulfill the organic standards. With less than ten
6 percent of the organically raised crops available for
7 production, organic feed has not kept up with this
8 demand.

9 In the product labeling, the statement is
10 the general principal employed in the regulation is
11 that labeling or identification of the organic nature
12 of this product increases as the organic content of
13 the product increases. Under our current standards we
14 have 100 percent organic, made with organic
15 ingredients, products with less than 70 percent
16 organics are allowed for other food products.

17 This type of flexibility is needed in the
18 labeling of organic produced meat and poultry. It is
19 a goal to remote organic production. Data from the
20 Food Marketing Institute trend of 2000 reports more
21 than half the consumers make their purchase decisions
22 based on labels.

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1 The limitation of commercial availability
2 on feed is an obstacle that must be addressed, and so
3 it's our suggestion that the Board consider adopting
4 the same type of practices that are available in the
5 agriculture food products and similar labeling
6 alternatives to the production of meat and poultry.

7 This alternative would support the
8 provision in regulation that promotes the organic
9 nature in the content of the product.

10 That was quick, and yes, ma'am.

11 MS. KOENIG: I have a question. How much
12 are you approaching producers of grain in trying to
13 contract with more so?

14 MR. GRAY: What we've found is that more
15 and more people that have gone into this, more and
16 more people have contracted out a lot of the crops
17 that are available for what I call natural food
18 production.

19 And what we've gotten into is a limited
20 supply of the feed that is left over, if you would,
21 with less than ten percent of it going into feed,
22 minimal acreage is out there that's available for this

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1 feed production.

2 So, yes, we've contacted -- we have
3 several people that we contact on a regular basis.
4 What Mr. Smoke from the Department of Agriculture had
5 mentioned a minute ago, we need something to help us
6 expedite into land that will help us get more crops
7 available. We need it for organic feed in our
8 production, and I'm sure people in cattle and pork
9 coming on are going to need the same type. We all
10 have to have it to keep and maintain it.

11 We don't want to lose the integrity that
12 we have within the organic. So how do we promote and
13 keep the organic promoting by not full commercial
14 availability?

15 And one way may be to take a look at how
16 we have the labeling process in place so we can keep
17 the integrity going.

18 MR. RIDDLE: Mr. Gray, do you have any
19 examples of suggested label claims? If there was a
20 label on a chicken fed with organic feed, that would
21 seem to indicate that it was organic.

22 MR. GRAY: We had thought about that, and

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1 I'd be glad to submit some of those things that we've
2 talked about with some other people in there.

3 You know, I'm proud to be the only poultry
4 producer in the United States approved by the American
5 Human Association's Free Farm Program. So I'm pretty
6 proud of that, but you have an aspect of where you
7 raised your chickens correctly, and that may be one
8 aspect of it. No antibiotics, no chemical medicines
9 may be another aspect of it.

10 When you get to a certain point if the
11 commercial feed availability is not there, that's
12 another one.

13 To answer your question, is it raised
14 organically, 100 percent raised organic? I'm not sure
15 what those terms are, but I would be glad to throw
16 some suggestions in and maybe communicate with some
17 other people in the room that run into or are seeing
18 this same type issue.

19 It's not a heavy issue for us as much now
20 as it's going to be within the next six months or to a
21 year.

22 Yes, ma'am.

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1 MS. KOENIG: I guess it's the same
2 question. So in your opinion is it a lack of
3 communication with conventional growers as far as the
4 opportunities that there might be in the marketplace?

5 Because I guess I'm a believer in supply
6 and demand.

7 MR. GRAY: There is a supply and demand,
8 and from their perspective when they move from one
9 category into the other, it's that risk factor that
10 sometimes they're not willing to take that step over
11 to start producing more of the crop into the organic.

12 And then you have a three years transitional period.

13 If we can't meet the growing demands
14 within this field, then you're going to have a market
15 collapse within the demand for the meat side of this.

16 If that is the case, then you've got somebody that's
17 spent three years in transition or gotten to that
18 point, and he may not be able to supply or not have
19 the market there of what he thought he was going to
20 have on that marketplace.

21 There are alternatives that have been
22 thrown out there to us, and that's a whole other issue

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1 I didn't plan on bringing up here, but we've been
2 approached that, yeah, we might be able to supply this
3 to you out of South America or other areas for our
4 organic corn, but that brings up a whole other issue
5 on the certifying agents, et cetera, on bringing it in
6 from other countries.

7 Yes, sir.

8 MR. WELSH: Have you thought about raising
9 the price of the grain which would induce more people
10 to grow it?

11 MR. GRAY: Sir, they've already raised the
12 price of the grain considerably. Trust me on that
13 one.

14 You're probably looking at three times the
15 cost now and probably five times the cost of what a
16 commercial type grain is.

17 MR. WELSH: I live in a grain producing
18 area, and they've got products they can't move.

19 MR. GRAY: We need to talk.

20 (Laughter.)

21 CHAIRPERSON BRICKEY: Bart Slaugh.

22 MR. GRAY: Thank you.

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1 MR. CARTER: Just one comment on this, as
2 with the previous gentleman. I come from a part of
3 the country where it's like pyramid. Everything is
4 driven through livestock. Whereas livestock accounts
5 for two-thirds of the receipts in Colorado.

6 And so what happens with livestock affects
7 everything underneath it, and I guess, you know, the
8 issue that I'm concerned -- and this is more a comment
9 to you than a question -- but the issue I'm concerned
10 about is we start tinkering with that and it sends a
11 signal to those folks that are out there that are
12 considering getting into organic grain production that
13 there might not be the demand pull that they were
14 hoping for if we maintain it like that.

15 MR. GRAY: And if we can move, it's kind
16 of like we have gone through the other traditional
17 type labels on the other side, you know. Made with
18 organic, 100 percent organic, organic, I agree with
19 you. That type labeling must be applied to that to
20 help move that person from one area to the other
21 because ultimately if the market is there, you want to
22 move yourself up to the top tier of that pyramid.

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1 Thank you all very much.

2 CHAIRPERSON BRICKEY: Thank you.

3 Bart Slaugh, S-l-a-u-g-h?

4 Les Ekland.

5 MR. EKLAND: My name is Les Ekland. I'm
6 the organic field supervisor for the State of
7 Washington's organic food program.

8 I am here on behalf of Miles McElroy in
9 two capacities actually. One is the President of the
10 National Association of State Organic Programs, and
11 his other capacity as the Director or manager of our
12 state organic program.

13 And so the first thing I would like to
14 read is from the NASOP, the National Association of
15 State Organic Programs.

16 The National Association of State Organic
17 Programs, NASOP, provides states ways to meet and
18 discuss the regulation of organic products and
19 services. NASOP explores problems experienced in
20 administering organic programs, facilitates
21 communication among the members, respective agencies,
22 and represents common interests to other national

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1 organizations and federal agencies.

2 State Departments of Agriculture and other
3 state regulatory agencies are critical sources that
4 help insure consumer confidence in organic food
5 products. States will play an important role in
6 enforcing compliance with the national organic program
7 through state organic programs and state certification
8 agencies.

9 States have a unique and important
10 perspective that should be represented in the
11 discussions of the National Organic Standards Board.
12 In order to help with the implementation of the NOP,
13 it is important that the NOSB has input from the
14 states. Therefore, NASOP recommends that USDA appoint
15 an ex officio state organic program representative to
16 the NOSB.

17 As you know, the next year is going to be
18 very important for the organic industry. This new
19 rule will no doubt be of benefit to the marketing of
20 organic products throughout the U.S. NASOP is
21 available to assist in any way we can in educating the
22 states regarding the implementation of the NOP.

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1 And I think that's fairly self-explanatory
2 for something that they would be requesting to that
3 organization.

4 The other part comes from the Washington
5 State Department of Agriculture, and it's our comments
6 on the NOSB recommendations. The first subject is
7 applicability recommendations.

8 The July 10th, 2001 recommendations from
9 the NOSB Accreditation Committee restrict the number
10 of exempts and exclusion from certification. The
11 Washington State Department of Agriculture supports
12 the recommended changes to the applicability subpart.

13 Additional limitations as specified below
14 should be placed on the number and type of handlers
15 that are exempted or excluded from certification
16 requirements.

17 The first one, processors that limit their
18 organic claims to the information panel. The NOP
19 final rule excludes processors that limit their
20 organic claims to the information panel from
21 certification requirements. This allows products to
22 have 100 percent organic and made with organic

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1 ingredients label claims on the information panel and
2 be exempt from certification requirements.

3 From a consumer perspective, these
4 products should appear as organic, and they will
5 expect them to be certified. The NOP should close
6 this loop hole and require certification for all
7 products that make organic claims even on the label,
8 even those products that limit the claim to an
9 ingredient statement.

10 The next part is exclusion for
11 distributors. The NOP final rule excludes wholesale
12 distributors from certification. Wholesale
13 distributors are the gatekeepers to the retail food
14 stores and to many processors. Distributors receive
15 organic food products from a variety of sources,
16 including farmers, foreign supplies, food processors
17 and other distributors.

18 Excuse me. I signed up for two slots, and
19 so the first one was for NASOP.

20 PARTICIPANT: Go ahead.

21 MR. EKLAND: Okay.

22 CHAIRPERSON BRICKEY: But you will be

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1 quick.

2 MR. EKLAND: Yes, I am being quick.

3 If distributors are exempt from
4 certification, there will be no monitoring or
5 oversight to insure that the distributors are only
6 shipping certified organic products through retail
7 food stores and other buyers.

8 Exclusion from certification for retail
9 food stores that process organic food. The NOP final
10 rule excludes retailers that process organic food from
11 certification. This is a loophole that creates an
12 unlevel playing field and does not protect consumers
13 from false organic claims. A retailer could have an
14 in-store base period that makes organic claims to be
15 exempt from certification and the costs of
16 certification.

17 This discriminates against processors that
18 do not sell their products retail. It also does not
19 protect consumers from false organic claims.
20 Retailers that process organic foods will not be held
21 to the same standards as wholesale processors. There
22 will be no audit to insure that retail processors are

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1 following the commercial availability business. There
2 will be no inspection to determine whether genetically
3 modified ingredients are used in the processed organic
4 products.

5 Mushrooms. We're just covering the whole
6 gamut here. The NOSB draft mushroom standards would
7 allow nonorganic manure and compost to be used in the
8 production of mushrooms. Compost and manure from
9 nonorganic sources, both agriculture and municipal,
10 often contains pesticide residues of organochlorines
11 and persistent herbicides, such as piclorem.

12 Mushrooms utilize the compost and manure
13 substrate directly for mycelial growth and fruiting.
14 Compost and manures from nonorganic sources should be
15 prohibited for use in organic mushroom production due
16 to the likelihood of contamination by pesticide
17 residues.

18 Apiculture. Organic livestock are
19 required to be fed 100 percent organic feed.
20 Honeybees should be held to the same requirement.
21 Organic apiculture standards should require bees to
22 forage on land that is organically managed. Honeybees

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1 are known to forage up to seven miles from the hive.
2 Organic apiculture standards should require colonies
3 to be located in an area where no prohibited materials
4 have been applies within seven miles of the hive.

5 Nonorganic forage should not be allowed.
6 The only way to encourage that nonorganic forage is
7 not utilized is by providing adequate seven mile
8 radius, organically managed or wild land which the
9 bees can forage.

10 Under 205.238, Subsection C, any animal or
11 edible product derived from any animal treated with
12 antibiotics is not allowed to be sold or labeled as
13 organic. Antibiotics should be prohibited under
14 organic apiculture standards to be consistent with the
15 organic livestock standard.

16 And one other statement about transitional
17 product. The WSDA supports the Draft 3 September 7th,
18 2001 recommendation. The NOSB may want to look at
19 additional procedures that require inspection during
20 the transitional period to verify that the
21 transitional requirements are being met.

22 And then Miles adds to this comment. He

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1 thanks for the ability to make these comments and that
2 he has a phone number where he's available.

3 MR. HARPER: I have a question. I don't
4 know whether you can answer them on the part of NASOP.

5 MR. EKLAND: No.

6 MR. HARPER: No. Okay, okay.

7 MR. RIDDLE: Thank you, Les.

8 MR. EKLAND: Thanks.

9 MR. RIDDLE: The next speaker is Billy
10 Robinson.

11 Hello, Billy.

12 MS. GOODMAN: Billy couldn't make it
13 today, and he asked if I would just please make this
14 comment for you.

15 There are only two copies of this right
16 now. So, Catherine, I'll give them to you and maybe
17 we can get copies later on for everybody to have.
18 It's very quick, and I'll read it to you very quickly.

19 PARTICIPANTS: Pull the microphone over.

20 MS. GOODMAN: How's that?

21 This is from Billy Robinson, who's
22 President of Nature's Best Organic Feeds, and his

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1 comment is about the inclusion of DL methionine in the
2 national list of approved substances for inclusion in
3 the diet of poultry and livestock raised for organic
4 food. He says:

5 Please accept these written comments on
6 the above-referenced matter.

7 My company produces organic broilers and
8 eggs and manufactures and sells over 40 certified
9 organic animal livestock feeds from our central
10 Pennsylvania location and through dealers from New
11 Mexico to Connecticut.

12 Number tow, in addition to my comments, I
13 would like to be considered with other testimony and
14 science based information presented in June and this
15 week. These comments are made in light of the fact
16 that organic methionine is not commercially available,
17 and that for livestock and poultry to be considered
18 organic they must be fed 100 percent organic feed.

19 I would like you to consider the humane
20 aspect of not allowing synthetic DL methionine to be
21 used in animal feed. We in the animal industry
22 receive orders for thousands of pounds of organically

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1 produced meat and eggs. We then produce to fill that
2 demand.

3 In order to fill the demand, we purchase
4 feed for the animals that is nutritionally balanced
5 for the dietary needs of the specific animals. Those
6 diets often include methionine currently. If we must
7 produce for organic consumer demand without methionine
8 in the diets, two things will happen.

9 First, production costs will increase so
10 high that most people will no longer be able to afford
11 to eat or produce organic meat or eggs. Thus, through
12 regulation, you prevent all but only the wealthy from
13 the benefits of organic meat and eggs.

14 Second, due to the increased mortality in
15 the animals and increased USDA condemnation at
16 processing, we will have to start approximately 20
17 percent extra baby poults or chicks or pigs to fill
18 our orders. That 20 percent is going to unnecessarily
19 die if the NOSB prohibits synthetic DL methionine from
20 being used in certified organic animal feeds.

21 Ironically, they would die so that the
22 remaining product produced would be considered

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1 certified organic. I urge you not to create that
2 situation.

3 Please consider the comments you have
4 heard based on nutrition, based on the environmental
5 impacts, but most of all, based on the humane reasons
6 I have listed above.

7 Thank you.

8 CHAIRPERSON BRICKEY: Thank you.

9 George Lockwood.

10 MR. LOCKWOOD: Madame Chairman, my name is
11 George Lockwood, and I wish to speak to the Aquatic
12 Animal Task Force report, and particularly to urge
13 that the inclusion of fish meal not proscribed at five
14 percent, limited to five percent, but a full ration of
15 fish meal will be allowed under organic standards.

16 I was a member of the aquaculture working
17 group that you appointed. That, in fact, working
18 group recommended the defoliation of fish meal be
19 allowed. There were some six or seven of us
20 professionals from the aquaculture industry in this
21 group who made the report.

22 The task force in their report is correct.

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1 The Section 6509(c)(1) of the Organic Food Production
2 Act requires that the producers shall feed livestock
3 organically produced that meets the requirements of
4 this chapter.

5 However, the act is silent on the
6 definition of organically produced feed.
7 Specifications for organically produced feed are left
8 to the rulemaking process and adoption by the
9 Secretary.

10 The Secretary under your recommendation
11 quite properly established organic certification
12 standards for terrestrial livestock. Under the Act,
13 the Secretary could readily consider that feed
14 requirements for fish are quite different than for
15 terrestrial livestock and could establish a second
16 category that would include marine and aquatic
17 animals.

18 It's interesting that although the
19 definition adopted by the Secretary in the final rule
20 for livestock in Subpart A describes a wide range of
21 different types of animals, yet it excludes fish with
22 the language except set the term livestock shall not

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1 include aquatic animals for the production of food.

2 From this it is clear that the intention
3 of the final rule is not to the organically farmed
4 fish as a type of terrestrial livestock. There are
5 substantial differences. Most of the fish in
6 aquaculture are marine carnivores. Most of the
7 animals grown on land terrestrially are herbivores,
8 and, therefore, there is a substantial difference in
9 the feed requirements.

10 The task force supplied terrestrial
11 standards in the final rule, where in the case of many
12 aquaculture or most aquaculture species they don't
13 apply. I suggest that the livestock committee and the
14 NOSB revise the task force recommendation back to what
15 the aquaculture working group recommended to allow
16 meals and oil from wild fish for the following
17 reasons.

18 First, aquaculture fish and shellfish are
19 very different than terrestrially stock, and these
20 differences should not by themselves preclude organic
21 certification as long as other criteria are met.

22 Second, the act provides that organic feed

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1 for fish can be different from terrestrial livestock
2 and still be organic and allows the Secretary to
3 define organic feed for fish in a way deemed suitable
4 and unconstrained by whatever is adopted for
5 terrestrial livestock.

6 Thirdly, the final rule specifically
7 excludes fish from the definition of livestock. I
8 suggest the livestock committee and the NOSB recommend
9 that the establishment of a separate specification for
10 feeds for aquatic animals in this category for, again,
11 feeds for aquatic animals provide for the inclusion of
12 unloaded quantities of fish meal and oil from wild
13 harvested fish from sustained, managed resources.

14 And, Madame Chair, I'd like to point out
15 that aquaculture, in essence, is being precluded with
16 the exception of tilapia and perhaps catfish from
17 organic certification by the adoption of this proposed
18 standard if it were to be adopted. This would exclude
19 salmon, trout, shrimp, striped bass, flounder,
20 sturgeon, oysters, and others.

21 And aquaculture is the fastest growing
22 segment of agriculture in the United States, and

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1 remarkably over the years that have been involved,
2 which go back almost 30 years, we have grown to the
3 point that one out of three fish eaten in the United
4 States and eaten in the world is farm grown.

5 Thank you, Madame Chair.

6 I submitted by electronic mail a letter by
7 July 31st, and I notice it didn't get into the record.

8 Was it not received? I submitted it to Dr. Sideman
9 and to the program.

10 CHAIRPERSON BRICKEY: The letter is in.
11 Do you have a copy you can give us?

12 MR. LOCKWOOD: I have my copy here. It
13 could be copied. I would like it back.

14 CHAIRPERSON BRICKEY: That would be great.
15 Thank you.

16 Marty Nash.

17 MR. NASH: In the interest of time and
18 lunch, I'll try to be brief and not duplicate other
19 statements and George.

20 My name is Marty Nash. I'm the Executive
21 Director of Florida Ag. Growers. I'm chair of the
22 Organic Trade Association, the Organic Certified

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1 Council, and serve on the Florida Ag. Food Advisory
2 Council, and have been involved with organic farming
3 since 1976.

4 The issues that I want to touch on this
5 morning or this afternoon are to support a finding for
6 a creative solution to the grower group situation. We
7 understand that meeting is gone, and we just support
8 on behalf of the OTC support a creative solution to
9 addressing the problem.

10 I encourage you guys to form a peer review
11 panel to help guide the accreditation process and try
12 to be proactive instead of reactive.

13 Just a word of, again, caution or
14 wondering about USDA accreditation program versus the
15 USDA certification program. Starting April the 21st,
16 we'll be given copies of every single non-compliance
17 that occurs, potentially at least in this country if
18 not the rest of the world as well. Foreign certifiers
19 are accredited by USDA. I would anticipate you'll be
20 getting noncompliances about in China or wherever
21 produce is grown. And so just that fine line between
22 accreditation programs and certification programs.

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1 Again, a word of warning about chlorine.
2 The definition in the final rule is not workable.
3 It's not workable given the context of the current
4 industry practices. Again, bring up the issue of
5 sprouts, and we'll be looking forward to the proposed
6 language form.

7 And then it saddens me, of course, to come
8 before you, which has been wrongly identified as my
9 issues, but as chair of the Organic Certifiers
10 Council, again, the organizational structure of
11 nonprofit, farmer-based organizations, and farmers
12 serving on their own boards.

13 I would just again -- you know, federally
14 regulated banks do not encourage their board members
15 to seek loans from other banks. Federally regulated
16 banks have board members that are active in their
17 bank, that recuse themselves from any type of
18 determination or consultation about their own loan,
19 but are encouraged to get loans from their own
20 organization.

21 So, again, we look forward to the issue
22 being resolved and hope that as accreditation

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1 applications come in that that issue is set aside
2 until some guidance is given.

3 I would talk about the unequal guidance
4 that has been given to certifiers. From what we hear,
5 certifiers being encouraged to send in the application
6 as it stands now, go ahead and get it in versus other
7 certifiers that we're told don't bother sending it in
8 until you are compliant, i.e., against your wishes,
9 against your board's wishes, change your bylaws prior
10 to sending it in.

11 If you look at data, again, there may be
12 only a small pool of certifiers, and the Senate
13 language talks about not reinventing the wheel, but
14 they constitute a vast majority of farmers that may
15 not have any financially valid option for alternative
16 certification options.

17 In the South, I will say that farmer based
18 organizations have decided not to seek accreditation
19 in George, Tennessee, North Carolina, and I believe
20 that the list will go on, Connecticut, NOFA, and so,
21 you know, this is not working in cooperation with the
22 partnership. In contrary language to the Senate

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1 intent, it is reinventing the wheel.

2 So just a hope that we can solve that
3 issue.

4 I think the other one is mandated spray
5 programs. Jim, if you can give me a heads up on two
6 minutes, I have two issues.

7 MR. RIDDLE: Okay. Right now.

8 MR. NASH: Mandated spray programs, I
9 would encourage you to link 205.671 with 205.672, as
10 West Nile spraying has grown in Florida, Georgia, last
11 year, New York, Connecticut. The spray zones are
12 getting wider, and again, as farmers maybe with the
13 Valencia orange crop, that would probably be out of
14 certification. There's two years' worth of crop on
15 it.

16 If you do a resin test as was required for
17 drift and see what the levels are, either it shouldn't
18 be sold as organic or if there's not residues in
19 excess of five percent, I don't see why that orange
20 couldn't be washed, juiced, and the juice is still
21 organically grown juice.

22 It doesn't seem fair, and so it seems like

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1 those two sections could be linked together.

2 The last one, I think, is ethylene. This
3 Board in this city, in Washington, D.C., issued a
4 recommendation and, in fact, I don't have the OMNI
5 manual, but it's listed in the OMNI manual, your exact
6 language for the post harvest ripening of fruits and
7 the de-greening of citrus. OMNI printed that after
8 the NOSB recommendation in the OMNI manual.

9 Some certifiers acted on it, and then in
10 the final ruling, which only says post harvest
11 ripening of tropical fruits, Rick has looked at the
12 language and said, well, then you can't use it.

13 And so my concern, Rick is looking at the
14 words, and I can appreciate him looking at the words
15 and say, "No, you can't use it."

16 But this Board who's in charge of
17 materials recommendations, it's not what the
18 recommendation was. I don't believe it's the
19 recommendation that's on the NOP Web site under the
20 NOSB minutes, and so I'm concerned that you guys sort
21 it out because it's citrus season now, and growers and
22 certifiers need to know how to do it.

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1 Thank you.

2 CHAIRPERSON BRICKEY: All right. Thank
3 you.

4 Still that got palm pilot going?

5 MR. NASH: No.

6 CHAIRPERSON BRICKEY: Angela Caudle.

7 PARTICIPANT: She's upstairs.

8 CHAIRPERSON BRICKEY: All right. Thank
9 you.

10 Bill Wolf.

11 MR. WOLF: In consideration of the Board's
12 time and schedule, I will not burden you with my
13 comments today, except to personally thank you and
14 especially to thank the five members who are rotating
15 off the Board.

16 CHAIRPERSON BRICKEY: Thank you, Bill.

17 (Applause.)

18 CHAIRPERSON BRICKEY: I feel the love now.

19 (Laughter.)

20 CHAIRPERSON BRICKEY: Diane Bowen.

21 MS. BOWEN: Good morning. I'm Diane
22 Bowen. I represent OCI International, an association

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1 of organic producers and handlers.

2 We certify operations in north, Central
3 and South America, and in Asia. We are incorporated
4 in the U.S., and approximately 1,500 of our 2,500
5 certified operations are in the U.S.

6 Our governing structure includes our
7 certified parties from the U.S., Canada, and Latin
8 America, but our certification program is overseen by
9 a committee patterned on the NOSB model for
10 representation of diverse stakeholder interests.

11 I guess trying to be short here, previous
12 speakers have requested that the NOSB look at the
13 problem created for certifiers by the real provision
14 which buys them produce from the governing boards of
15 their organizations.

16 It's true we heard that this is referred
17 to as Marty's issue. As chair of OTA's Organic
18 Certifiers Council, Marty has taken a lead in
19 representing certifiers on this issue, but I assure
20 you that the issue is of great consequence to other
21 certifiers, OCI International and its 2,500 members
22 included.

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1 The intent of Congress in passing the law
2 was to preserve and not duplicate the existing
3 certification systems. The great majority of the
4 certification system was then and is now comprised of
5 private membership associations of producers, handlers
6 and consumers.

7 Yes, we have a final rule, but as former
8 Secretary Glickman said, it is not perfect, and
9 improvements will need to be made.

10 This particular improvement needs to be
11 made not only to meet the intent of Congress, but at
12 this point to implement the program on schedule and
13 without disruption.

14 We also add our voice to the concern that
15 the NOP accreditation program is about to begin review
16 of applications as early as this week, but needs a
17 quality system manual for application review and
18 decision procedures.

19 Both of these applicants and the NOP have
20 obligations to comply with the accreditation
21 procedures of the rule, and the rule specifies that
22 the NOP accreditation program was conducted according

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1 to the provisions of ISO Guide 61.

2 Guide 61 requires documented procedures
3 for conducting all phases of accreditation, not just
4 site evaluations, which is in place in the meat
5 grading program.

6 To this end, we ask that the NOSB give
7 high priority to the implementation of the peer review
8 panel to provide early review of the accreditation
9 process.

10 And finally, a third point. We support
11 the public comments made by Michael Slye and grower
12 groups. OCIA International certifies approximately 50
13 grower groups in Latin America and in Asia and can
14 provide NOSB and NOP with its community grower group
15 quality manual as a resource on this matter.

16 Thank you for your consideration.

17 CHAIRPERSON BRICKEY: Thank you.

18 Bob Durst.

19 MR. DURST: Hi. I'm Bob Durst with Simple
20 Organic Solutions, a consulting entity, and I want to
21 address a little bit on their national list of
22 materials getting on it.

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1 As you've heard from numerous speakers
2 before me, there's some frustration with the Board,
3 certainly with consumers and processors with getting
4 materials petitioned to the national list, but I'm
5 expressing a concern about things once they get to the
6 national list getting decided upon.

7 I don't have a vested interest in any of
8 these materials that are being petitioned as a
9 consultant. It doesn't mean anything to me, but the
10 people that I work for, these processors, are very
11 much interested in getting an answer as to whether
12 things are going to be approved and allowed or not.

13 The delays in having these decisions made
14 are approaching criticality for these folks. An
15 example is the volatile means used as steam additives
16 that I know it's due for a vote tomorrow, but it
17 applies equally well to a lot of other materials that
18 are before the Board.

19 As time continues to grind
20 forward, processors need these answers so that they
21 are either alternative materials or capital equipment
22 expenditures can be made to their plant so that they

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1 can stay compliant with organic regulations.

2 Now, the time frame for some of these
3 changes is at best many months, and it's often
4 approaching years without finding decisions,
5 disruptions in the continuous flow of products through
6 the plants is likely to happen.

7 What I'm encouraging you is not to table
8 items in hope of getting additional information for
9 it. You know, the TAP review process may not be
10 perfect, but it's the best thing available at the
11 time. Make use of that information and make decisions
12 on it.

13 So I admonish you to make informed but
14 prompt decisions on materials petitioned for inclusion
15 on a national list.

16 Just a short question about the decision
17 process. Let's take steamed tentacles as an example.

18 Once the NOSB decides on steamed tentacles tomorrow,
19 makes some kind of decision on it, will that decision
20 pass through USDA without any changes or is there a
21 possibility of changes, of the NOSB's recommendation
22 not being approved by USDA?

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1 MR. LOCKERETZ: It depends on which
2 direction the recommendation goes, doesn't it? The
3 Secretary could not added, could fail to approve.

4 MR. MATHEWS: If they recommend that a
5 substance be added to the list, we will put out a
6 notice to that effect and accept public comment on
7 that recommendation.

8 MR. DURST: But if it's used to reject it,
9 then there's no pre-decision on it.

10 Okay. Thank you.

11 CHAIRPERSON BRICKEY: Thank you.

12 Steven Gray.

13 Okay. Wayne Bradley.

14 I guess they're at lunch, huh?

15 Let me go back and do the people we called
16 on. Bart Slaugh?

17 Owen Keene?

18 Ming Tanquil?

19 Morris Preston?

20 Dirk Ave or Ave?

21 Elliot Gibber?

22 I think that's it. Thank you all very

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1 much. Yes?

2 MR. HERMAN: When I signed the other one,
3 can I just write my name down?

4 CHAIRPERSON BRICKEY: Okay. We'll find
5 you. Come forward.

6 MR. HERMAN: I'm sorry. I'm the Director
7 of Technical Affairs for the National Fisheries
8 Institute. The NFI is the U.S.'s largest nonprofit
9 trade association representing all aspects of the fish
10 and seafood industry relating to U.S. market.s

11 Part of our mission is to insure there's
12 an ample sustainable and safe seafood supply for
13 American consumers, and in light of this mission
14 directive, we would like to offer the following
15 comments.

16 The recommendation by the Aquatic Animal
17 Task Force to the USDA's National Organic Standards
18 Board states that all wild caught fin fish, as well as
19 all mollusk and shellfish of wild caught and open
20 water aquiculture produced are completely ineligible
21 for organic certification.

22 The NFI believes that the task force

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1 overlooked information that demonstrates compatibility
2 between managed organic production systems and certain
3 highly managed fisheries in both marine and fresh
4 water environments. While not reiterating these
5 arguments here in favor of the eligibility of certain
6 wild caught fish for organic certification, the State
7 of Alaska and other interested parties have previously
8 presented them quite cogently and convincingly.

9 The task force also recommended that
10 aquaculture produced fin fish must be grown with feed
11 containing a maximum of five percent nonorganic fish
12 meal. Aquaculture producers of carnivorous fishes,
13 such as trout and salmon are left with the supremely
14 ironic situation. The only way their seafood products
15 can qualify for an organic designation in the USA is
16 by trying to adapt the fish stocks to an essentially
17 vegetarian diet, completely unnatural to the wild type
18 species and also counter to the original intent and
19 spirit of the Organic Foods Production Act of 1990.

20 The NFI obviously disagrees with the five
21 percent fish meal limitation. It is our contention
22 that the organic diet requirement should be based on

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1 the biological requirements of the animal in question.

2 In nature obviously carnivorous aquatic
3 species have high protein diets made up almost
4 exclusively of fish. The aquatic animal task force
5 developed their recommendation from reports issued by
6 the wild aquatic species working group and the
7 aquaculture working group. These reports were
8 acceptable while covering a range of opinions and
9 viewpoints.

10 For instance, the majority recommendation
11 preliminary report from the aquaculture working group
12 was for the inclusion of fish meal and fish oil into a
13 certified organic aquaculture diet. One of the
14 members of the wild aquatic species working group
15 observed in the preliminary report that, and I quote,
16 "wild systems with the right standards can fit the
17 organic system," end of quote.

18 The NFI and the seafood industry feels
19 that the worst possible options were selected from the
20 working group reports by the task force's
21 recommendations to the NOSB. These worst case options
22 adopted by the aquatic animal task force are

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1 indicative of the need to develop a separate set of
2 standards for aquatic organisms.

3 Having followed these deliberations, it
4 has become evident that terrestrial standards of
5 organic production do not and, indeed, cannot apply to
6 aquatic operations. Requiring the product animals to
7 meet terrestrial standards will neither meet
8 consumers' needs nor fulfill the original intent of
9 the organic legislation.

10 Ideally, the NOSB should be supporting all
11 forms of providing food in the most sustainable and
12 healthful manner possible.

13 There are also no fisheries and
14 aquaculture representation on the National Organic
15 Standards Board. The Board seems to be clearly biased
16 in this area with no member representing aquatic
17 animals and the industries that produce them.

18 As mentioned previously, a number of good
19 suggestions came from the working groups, but did not
20 make it into the task force recommendations to the
21 NOSB. We feel that this bias needs to be addressed
22 and corrected before the NOSB completes the decision

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1 making in regard to organic certification for fish and
2 seafood products.

3 It should also be considered that the
4 European have already certified organic fish and are
5 very successfully marketing them. In article from the
6 august 2001 issue of Fish Farming International, a
7 U.K. producer of organic salmon reports a demand
8 that's continually increasing and exceeds supply. The
9 organic salmon diet is approved by the Soil
10 Association and contains, quote top quality fish meal
11 produced from a sustainable fishery or as a byproduct
12 of fish processed for human consumption, end of quote.

13 The U.S. seafood industry respectfully
14 petitions the NOSB to delay any decisions regard
15 aquatic organisms until the Board has adequate
16 representation from the fish and aquaculture
17 industries.

18 We further urge the development of a
19 separate set of standards specific to both wild caught
20 and farm raised aquatic organisms which will correctly
21 meet the original intent and spirit of the OFPA.

22 A National Organic Standards Board with

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1 seafood industry representation and a proper directive
2 from the USDA will measure up to this standard.

3 Thank you very much for the opportunity to
4 make these comments.

5 CHAIRPERSON BRICKEY: Thank you.

6 I want to thank everyone who's commented.
7 We very much appreciate your feedback, and I also want
8 to thank you for your patience. We had a very long
9 list of people to get through.

10 We're going to take a lunch break now.
11 It's going to be 45 minutes. I urge the Board to go
12 in there and gobble down your lunch. Don't enjoy a
13 minute of it. Don't talk to anybody and get back here
14 in 45 minutes.

15 (Laughter.)

16 (Whereupon, at 12:29 p.m., the meeting was
17 recessed for lunch, to reconvene at 1:15 p.m., the
18 same day.)

19

20

21

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:41 p.m.)

3 CHAIRPERSON BRICKEY: Let's get started.

4 Because we had so many people who are
5 interested in this industry -- hello.

6 PARTICIPANT: Thank you for taking your
7 seats.

8 CHAIRPERSON BRICKEY: We had a long
9 comment period this morning, and we're behind on our
10 agenda. That's fine. We'll figure this out. We want
11 people to comment. We don't want people to feel
12 intimidated about doing that.

13 But I wanted to just make some quick
14 remarks and go over the agenda so we can get into this
15 meeting more formally.

16 First of all I want to welcome everybody
17 here. As I said, I want to thank the commenters this
18 morning.

19 I want to thank our Board members. I
20 think everyone is here but one Board member. So
21 that's great.

22 It reminds me of this flight I just took.

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1 I want to give my little unity speech. When I flew
2 in here, the pilot in making his announcements said,
3 "Turn to the person next to you and get to know that
4 person and become friends."

5 So I turned to the person next to me, and
6 he looked at me, and there we were, and he told me who
7 he was, and he said he worked for Exxon.

8 So then I told him who I was and what I
9 did, and he said, "Well, this is probably not going to
10 work out, is it? We're not going to become buddies."

11 (Laughter.)

12 CHAIRPERSON BRICKEY: And I said, "That
13 may not be the case." I said, "We have a job to do to
14 help protect what goes on on this airplane." I said,
15 "If we need to do anything to make that happen, we'll
16 be buddies. Don't worry about it."

17 So I say by analogy to you that this is a
18 very small, fragile industry. People have to get
19 along, and they have to work together.

20 I don't have to say much more than that
21 about unity because we're all so crammed in here
22 together that we have to be buddies. There's no way

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1 around that.

2 And I want all of you to know how much we
3 appreciate your involvement and participation. I was
4 struck by the remarks this morning that were delivered
5 by our new USDA officials about the number of people
6 that were in this room. They don't know yet what a
7 participatory industry this is, but they will find out
8 very quickly, and I know you'll let them know that.

9 So I thank you for that.

10 I want to talk a little bit about the
11 agenda this morning. From this morning because we're
12 running behind and obviously wanting to make up some
13 time, the first thing we're going to do when we resume
14 is we're going to approve our minutes from our last
15 meeting. We've had those out for some time.
16 Hopefully everybody has had a chance to read them and
17 we can move quickly through that.

18 Then we're going to go to an update from
19 Rick Mathews. A number of issues were raised this
20 morning, and we had already discussed a number of
21 items that we wanted him to talk with us about. So we
22 look forward to that.

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1 Then we have numerous items to go through
2 for each committee, and we're going to do that as
3 swiftly as we can so we can make it clear what the
4 issue is, what the recommendation is, and what we're
5 going to be voting on when we do.

6 At four o'clock, we have a presentation
7 from Jim Jones from EPA, and we will go to him at four
8 o'clock or whenever he arrived after four o'clock.
9 That may mean that some of what we need to do with the
10 committees will be delayed or even put off, but we
11 will get to that. So that's what we have to do.

12 And then we have a presentation from the
13 Foreign Agriculture Service at 4:45.

14 So any questions about today's agenda from
15 anybody?

16 MR. LOCKERETZ: You're just talking about
17 today's agenda?

18 CHAIRPERSON BRICKEY: I beg your pardon?

19 MR. LOCKERETZ: You're just talking about
20 today's agenda?

21 CHAIRPERSON BRICKEY: So far just today's.
22 Tomorrow we want to begin with a

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1 discussion about the aquatic task force working group.

2 I may make a suggestion to the group that we start a
3 half hour earlier. Can we do that, Rick?

4 MR. MATHEWS: Sure.

5 CHAIRPERSON BRICKEY: Well, we'll talk
6 about that. We've just got to make sure we make up
7 time.

8 Is that all right with you, Willie, if we
9 started at eight tomorrow?

10 MR. LOCKERETZ: Well, we had an hour
11 planned for the committee. It was pretty important.

12 How would the committee feel about meeting
13 at seven here?

14 CHAIRPERSON BRICKEY: Let's talk about it
15 at the break.

16 MR. LOCKERETZ: That committee meeting is
17 pretty important

18 CHAIRPERSON BRICKEY: All right. We'll
19 talk about it at the break.

20 Then we'll begin our materials review, and
21 we're counting on Kim to crack the whip here and make
22 sure we move along and get through this as

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1 expeditiously as possible, and if we don't, we've
2 already provided for the fact that we may have to stay
3 beyond 5:30. So if we have to do that, that's what
4 we'll do.

5 Okay. So that's Tuesday. Any other
6 questions or thoughts about Tuesday?

7 (No response.)

8 CHAIRPERSON BRICKEY: Wednesday. We're
9 going to resume public comments at eight o'clock.
10 We've allotted two hours. I hope that most people had
11 their say today, but we want to give people an
12 opportunity if something comes up during the course of
13 the meeting and give them an opportunity to comment on
14 it.

15 Then we're going to move to Rosie for a
16 task force report on doing outreach to producers in
17 the organic community. We're going to go over quickly
18 our committee items and vote, and then in the
19 afternoon we have a presentation from Dr. Post at
20 FSIS.

21 If we need the time, we will complete our
22 materials review at that time, if we have any leftover

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1 issues that we have to deal with.

2 We'll go over briefly our work plans and
3 expect each committee chair to report on where the
4 committee is in its work plan and what's on tap next.

5 And we will elect a new chair and vice
6 chair unless Mayor Giuliani and I figure out a way to
7 change the rules.

8 (Laughter.)

9 CHAIRPERSON BRICKEY: Then we will
10 adjourn.

11 So that's our agenda. Let's get started.

12 MR. LOCKERETZ: Carolyn, several
13 questions.

14 CHAIRPERSON BRICKEY: All right.

15 MR. LOCKERETZ: The committee action items
16 on Wednesday, how does that differ from all of the
17 various votes on committee matters we're taking today?

18 CHAIRPERSON BRICKEY: We are planning to
19 do our vote on Wednesday and discuss the items today.

20 That's the way we've done it in the past, and I think
21 it makes it clear to the Board what we're doing or not
22 doing, and we can move swiftly through voting that

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1 way.

2 MR. LOCKERETZ: Okay. The other, there
3 are three offices to be elected. There's a Secretary
4 to be elected as well.

5 Also, the four o'clock adjournment is a
6 problem. Several of us have booked departure based on
7 a 3:30 adjournment.

8 CHAIRPERSON BRICKEY: And I am aware of
9 this problem, and I will move the agenda on as quickly
10 as I can. Okay?

11 MR. LOCKERETZ: Okay.

12 CHAIRPERSON BRICKEY: All right. Anything
13 else about the agenda?

14 (No response.)

15 CHAIRPERSON BRICKEY: Okay. Then let's go
16 to the minutes, Jim.

17 MR. RIDDLE: Okay. The minutes from the
18 June meeting are at Tab 3 in your book, and they were
19 circulated once they had been compiled from the
20 transcript, which was quite a job, I'm sure, for NOP
21 staff to pull the minutes out of the extensive
22 transcript.

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1 And the same process is being followed
2 this time as well. So there have been some comments,
3 some changes that went into this revised version. Is
4 there anyone else who has additional changes, comments
5 to the minutes as they're presented?

6 MS. GOLDBURG: I'd like to correct the
7 spelling of my name.

8 MR. RIDDLE: Your name.

9 CHAIRPERSON BRICKEY: That's pretty darn
10 picky, Becky, but we'll make the change.

11 MR. RIDDLE: Okay. U-r instead of e-r.
12 Sorry I didn't catch that.

13 Anything else?

14 (No response.)

15 MR. RIDDLE: Well, seeing no other hands,
16 I move that they be adopted as amended.

17 MR. LOCKERETZ: Second.

18 CHAIRPERSON BRICKEY: All those in favor,
19 voice vote.

20 (Chorus of ayes.)

21 CHAIRPERSON BRICKEY: The minutes are
22 approved.

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1 MR. RIDDLE: I just as Secretary want to
2 inform members of the Board and members of the public
3 that the Executive Committee minutes are being posted
4 on a regular basis. So if you're not on the Executive
5 Committee, you should go to the Web site.

6 Actually they're being circulated to the
7 members, but for members of the public, to keep
8 abreast of what the Executive is doing, we're meeting
9 by teleconference on a monthly basis, and those
10 minutes have been posted approximately two weeks after
11 each meeting on a regular basis. So you can stay
12 informed that way.

13 And just one other comment. The time lag
14 that it takes for the full Board minutes to get turned
15 around has been a little bit of a concern, and the
16 concern for me is because I really use minutes as kind
17 of a work plan of exactly following through on what we
18 said we would do.

19 And so in speaking with Rick about this, I
20 think it's very important at the end of the meeting,
21 as Carolyn just said, on the agenda we have committee
22 work plan reports, and that we have typed minutes of

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1 those being take, and that we use those as our follow-
2 through document instead of waiting for the large
3 minutes to come out.

4 So I think we can accomplish both of these
5 goals, the complete minutes, but an up-to-date work
6 plan that is turned around in just a matter of days
7 instead of matter of months.

8 So that completes my report.

9 CHAIRPERSON BRICKEY: Thank you.

10 Now let's go to Rick Mathews.

11 MR. MATHEWS: First of all, I want to
12 start off with some personnel additions. Demaris
13 Wilson, if she would stand, please. Demaris?

14 Demaris currently works with the
15 information staff of AMS. She is currently doing some
16 part-time writer/editor work for us. She will become
17 our full-time writer/editor for a period of one year
18 beginning on October 28th. Her primary duties are
19 going to be helping with the Q&As to make sure that
20 they're in English, to put a lot of the other
21 documents into English since we bureaucrats have a
22 tendency to use gobbly-gook, according to some of the

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1 people. Personally I don't think I do.

2 But Demaris is going to be our
3 writer/editor, and she's got a full plate ahead of her
4 already.

5 Katherine Benham. Katherine, would you
6 please stand? She has been working with Tony to
7 organize this meeting. I have actions with the
8 Personnel Department trying to bring Katherine on full
9 time, and as soon as we can get that accomplished, she
10 will be assigned to work with the NOSB on all of its
11 meeting activities and other activities.

12 We also have a secretarial position that I
13 have made a selection for, and that individuals is
14 also before the Personnel Department, and hopefully we
15 can have both Katherine and Lonnie Burch on our staff
16 before the end of November, sooner if possible.

17 One of the other things to be addressed is
18 the accreditation applicants. To date we have
19 received 16 applications. Six of them are domestic.
20 The other ten are from international companies.

21 With regard to nominations to replace the
22 five members of the Board, we are now up to 27

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1 nominees. The period for nomination closed last week,
2 and this is how the 27 nominees break down, and for
3 those of you who do a little quick math in your head,
4 you're going to say, "Well, wait a minute, Rick. You
5 said there's 27, but when I add up the totals, I get
6 38."

7 I'll warn you ahead of time that several
8 of these people have been nominated for more than one
9 position.

10 So I've still broken it down by category
11 as either a consumer public interest in which we have
12 seven people who could be -- from among those seven
13 one person would be selected.

14 For producer, there's 13 nominees. Again,
15 only one will be selected.

16 Handlers, we have eight. Again, one will
17 be selected.

18 Scientists, we have eight. Again, one
19 will be selected.

20 And environmentalists, we have two.
21 Again, one would be selected.

22 There's five open positions on the Board,

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1 one in each of those five categories.

2 As was mentioned earlier today, we do have
3 two new vendors for providing TAP reviews. Now, it's
4 been questioned as to whether or not the appropriate
5 process has been applied. I can assure you that the
6 government has contracting procedures, and all of the
7 contracting procedures were followed by the people in
8 Minneapolis who do all of our contracting. Okay?

9 What we have done is the OMRI contract,
10 which was scheduled to expire on September 31st or
11 September 30th of 2001, which was last month, that has
12 been extended until September 30th of 2002.

13 We also have a contract with Cal.-Davis.
14 That also runs through September 30th of 2002. We
15 also have a contract with Virginia Tech., which runs
16 again through September 30th of 2002.

17 We felt it in the best interest of the
18 organic industry to extend the OMRI contract. We also
19 felt that it was in the best interest of the organic
20 industry to add additional vendors, keeping in mind
21 that as some people said earlier today, there's a
22 train wreck waiting to happen on materials.

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1 So we now have three different vendors who
2 can help us process the TAP reviews as the petitions
3 come in.

4 There's also been some questions raised
5 with regard to accreditation, and what I want to do is
6 bring you up to date as to where we are with
7 accreditation, and actually, Beth, I'll probably turn
8 some of this to you.

9 Where we are is that Beth has created a
10 packet about this thick. It has in it the procedures
11 that we're going to follow. It has a checklist to be
12 used by the auditors. It also has a checklist that
13 we're planning to add to the Web site, which would
14 help the people who are applying for accreditation,
15 and that also brings me now to the application.

16 We have decided that it's probably a good
17 idea to take another look at the application itself.
18 It's that one page that's on the Web site.

19 Our intentions are to take a look at that
20 and see if we can clarify it, not change it, but
21 clarify it for the benefit of those who are applying
22 and to include a checklist.

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1 Our goal is to hopefully have that up on
2 the Web site within the next couple of weeks.

3 Beth, do you want to talk in detail about
4 where we are on all the materials?

5 PARTICIPANT: We're working with livestock
6 and feed program on the part of Agricultural Marketing
7 Service. They have worked closely with us in a supply
8 program. People dedicate themselves. They're not
9 technical experts, but they are dedicated, and a nice
10 complement of skill sets.

11 I'm sorry. Can you hear me in the back
12 now?

13 As I said, we are working with another
14 part of Agricultural Marketing Service, which is
15 the -- I don't know who to talk to.

16 (Laughter.)

17 PARTICIPANT: We're working with
18 Agricultural Marketing Service, which is a sister
19 agency to the Transportation Marketing Service
20 National Organic Program. They're auditors. We're
21 technical experts on organics. So we're working
22 together as we did in the ISO Guide 65 Program to pool

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1 our resources, to insure that all of the auditing is
2 done in a fair and equitable manner.

3 As Rick said, I've developed a checklist
4 for the organic programs. It's in its final stages of
5 editing. The checklist we hope to make available as
6 soon as possible, and it will be the same checklist
7 that the auditors use and we use as technical experts
8 on the standards to review applicants.

9 We're just on the brink of starting the
10 review. It has taken us some time to reach this point
11 because I've been working on developing both the ISO
12 Guide 65 manual, which ensures NOP's ability and
13 expertise to provide accreditation, as well as the set
14 of procedures for accreditation to insure everyone's
15 success equally.

16 We don't want to get caught somewhere in
17 between where we're assessing one person and then we
18 make changes and then we have to go back and forth.
19 So we want to start everybody out in the same system.

20 We're very close to doing that. I'd say
21 within -- actually I'm looking at an application right
22 now with our checklist, and it's a preliminary review

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1 at this point, but the train is slowly moving down the
2 tracks.

3 MR. MATHEWS: And what's transpired
4 recently, too, is that all of the staff members have
5 been given Beth's packet and been asked to put
6 themselves in the shoes of a certifying agent and to
7 come back to Beth with issues that they have with the
8 materials.

9 Is there something missing? Is there
10 something that's not quite clear enough?

11 And like I said, Demaris is working with
12 us. She's also doing the English version of the
13 documents.

14 So my position is that we are well along
15 the way. We've got checklists that have been drafted,
16 two different types of checklists. We're looking
17 again at the application. We've got procedures that
18 have been developed. We are well along on the
19 development of the quality manual. The GAP analysis
20 has been completed. The procedures are probably three
21 quarters of the way along.

22 And so it's coming. It will be a little

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1 farther down the road, but it is coming.

2 PARTICIPANT: And in regard to the quality
3 manual, I'm sure that some of you have had some
4 experience with developing quality manuals. I can
5 tell you that our quality manual is developed to the
6 point that the parts that are not completed will not
7 affect the way accreditation is done.

8 The accreditation procedures that are part
9 of that quality manual are very primarily in place.
10 The parts of the quality manual that are not completed
11 have more to do with technical things like what is
12 USDA's liability coverage or things like that that
13 just are technical things that need to be filled in.

14 I felt it was more important in developing
15 this quality manual that we get accreditation going on
16 and I can back to fill those things that -- you know,
17 that they exist. I just haven't put them in.

18 Thanks.

19 MR. MATHEWS: Thank you, Beth.

20 Now, in the area of crops and livestock,
21 it's my pleasure to announce that we have entered into
22 a cooperative agreement with the National Center for

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1 Appropriate technology. What we're doing with them is
2 agreement whereby they will develop checklists for
3 crop and livestock production that will be presented
4 to crop and livestock producers, and it will also be
5 available to the certifying agents to help them as
6 well.

7 But the primary focus of that project is
8 on producers, and the target for that is early May, to
9 have that, or March. I believe it's early March,
10 right, Mark, or is it February? Do you recall the
11 date on that Mark?

12 MR. KEATING: Individuals are February
13 7th.

14 MR. MATHEWS: Okay. So hopefully we'll
15 have that delivered early February, and then we'll be
16 able to get that out to the certifying agents and to
17 their clients as soon as possible after that date.

18 The technical corrections docket has been
19 drafted, and it is under internal review. We are also
20 trying to put together the commercial availability
21 rulemaking docket. It's a little farther away than
22 what some people might like.

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1 Reasonable security is also going to be a
2 rulemaking action. I can tell you that when it comes
3 to reasonable security we're going to view that as
4 more like a minor noncompliance at this point because
5 we don't have the procedures in place to say what
6 reasonable security is.

7 But we are diligently working on that.
8 We've been researching what other agencies do in the
9 area of reasonable security. Mark has developed a
10 briefing paper on that, and we're essentially moving
11 forward on getting ready to put together a rulemaking
12 docket.

13 But in the meantime, we're not going to
14 hold applicants accountable for meeting procedures
15 that haven't even been put in place yet.

16 MR. RIDDLE: Can we can questions as we go
17 along or would you rather wait until the end?

18 MR. MATHEWS: It doesn't matter. Park of
19 it is time.

20 MR. RIDDLE: This one is just actually for
21 clarification because you started talking about
22 commercial availability, and then you moved to

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1 regional security and said it would also be a
2 rulemaking, which I understand the regional security
3 is, but do you anticipate that the commercial
4 availability is going to lead to a change in the rule?

5 I mean, when you said the word "also,"
6 that's what threw me.

7 MR. MATHEWS: Well, the rule went out and
8 asked for comments on commercial availability. Mark,
9 can you expound on that any?

10 MR. KEATING: Well, it's a question
11 comment.

12 PARTICIPANT: The court reporter can't
13 hear you.

14 MR. KEATING. Oh, I'm sorry.

15 We did receive a comment, a public comment
16 on the request that we put in the final rule. I think
17 people are familiar with that. They've seen it on the
18 Web.

19 I think Jim's question was along the lines
20 of are we talking about additional rulemaking or are
21 we talking about something that would be a program
22 manual guidance or additional clarification, and

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1 that's going to have to be a program decision, you
2 know, which avenue it takes.

3 MR. RIDDLE: Okay. So the reasonable
4 security definitely will take a rule.

5 MR. KEATING: That's a rulemaking.

6 MR. RIDDLE: But the other one is
7 undecided at this time.

8 MR. MATHEWS: Right.

9 MR. RIDDLE: Okay. I understand. Just
10 that clarification.

11 MR. MATHEWS: But we are working on both
12 of those issues, commercial availability as well as
13 reasonable security. The reasonable security
14 absolutely has to be a rulemaking action. Essentially
15 we told them that's what we were going to do, and so
16 we are committed to putting on a proposed rule on
17 reasonable security.

18 But because that has not been done,
19 obviously we can't hold applicants to the reasonable
20 security provision.

21 Obviously our plate is going to become a
22 little fuller very soon with the Board's actions on

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1 mushrooms and greenhouse and apiculture. I can tell
2 you what our thinking is on that.

3 My preference would be to do at least two
4 dockets on that, and the reason for that is to try and
5 insure that if there's any controversy among
6 individuals who have to review this whole process,
7 you've got to remember that any rulemaking that we do
8 has to go not only through the attorneys and the
9 officials here in the department, but it also has to
10 go to OMB.

11 And my concern is that some of these might
12 raise some questions at OMB that would kind of stall
13 it. So our thinking is that we would do mushrooms and
14 greenhouse maybe together, or if the Board would
15 prefer we could do them separately. Definitely
16 apiculture should probably be done separately in order
17 to facilitate that which is not controversial, being
18 able to move forward without holding up the whole
19 package.

20 MR. BANDELE: When you say that, what you
21 mean is there's going to be two sets of comments, the
22 public commenting on that?

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1 MR. MATHEWS: Oh, no.

2 MR. BANDELE: To separate dockets?

3 MR. MATHEWS: Yeah, what I'm talking about
4 is you could have -- if you've got greenhouse,
5 mushrooms, and apiculture, you could have as many as
6 three proposed rules going out, one for each of those
7 areas. That way if there's some kind of controversy
8 somewhere along the line, you don't end up having all
9 three areas caught up in the controversy of one.

10 It will make a little more work for us,
11 but we think that it will help that which is not
12 controversial move forward.

13 And of course, aquatic animals, whatever
14 gets decided. We really don't know where to go with
15 that. We're waiting for you to give us your guidance.

16 We can tell you that there have been
17 letters coming in from various industry groups asking
18 that action not be taken, but as you heard today, the
19 governor of Alaska would like to see you take the
20 action.

21 We're going to try and get a sense from
22 Senator Stevens' office on that as well before you

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1 have to take your action.

2 MR. LOCKERETZ: Excuse me, Rick.
3 Concerning mushrooms, greenhouses, and apiculture,
4 until such time as the rules have been made, there is
5 no organic version of those three groups, correct?

6 MR. MATHEWS: That's my understanding.

7 MR. LOCKERETZ: So there's no chance of
8 this happening on April 2002, is there?

9 MR. MATHEWS: Well, that's another reason
10 for doing separate rules. If they're
11 noncontroversial, we might look for avenues to shorten
12 the process. For example, an interim final rule might
13 be a possibility.

14 MR. LOCKERETZ: Is there any possibility
15 of greenhouse, mushroom things certifiable by April
16 2002?

17 MR. MATHEWS: Not April 2002, no.

18 MR. LOCKERETZ: If everything went well?

19 MR. MATHEWS: At the very earliest, it
20 would be October of 2002. I mean, it's really an 18
21 month process for rulemaking. You've got to consider
22 there that six months of that is spent in OMB. Two

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1 months is spent up on Capitol Hill, and so that only
2 leaves ten months, and if you're doing that as a
3 proposed rule/final rule, you've got to figure that
4 you're allowing about six months of that time for
5 comments.

6 Well, I take that back. Three months for
7 commenters with a 90-day comment period. So now
8 you're down to about a six, seven-month period for the
9 department to get two rulemaking actions out.

10 MR. SIEMON: So that brings us to a lot of
11 the questions we've got about transition, but I just
12 wanted to have it clarified what I've heard, that,
13 therefore, what we pass now at this meeting is the
14 only thing that will be ready by October 2002. That's
15 a year, not 18 months, if it's ready then.

16 MR. MATHEWS: Yes, that's right.

17 MR. SIEMON: So things passed in future
18 meetings are going to be delayed about 18 months to a
19 year basically.

20 MR. MATHEWS: Yes.

21 MR. SIEMON: That's part of the whole
22 transition issue, again.

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1 MR. MATHEWS: Any new rulemaking actions,
2 yes, it's going to take you up to 18 months to get it
3 done.

4 CHAIRPERSON BRICKEY: And how will you
5 deal with existing products that have an organic label
6 on them, but have not been addressed by the rule?

7 MR. MATHEWS: We still have to get a
8 ruling out of OGC on that one. I guess what you're
9 doing is you're asking will organic honey be organic
10 honey after October of 2002, and I can't give you an
11 answer on that today.

12 CHAIRPERSON BRICKEY: Is there an action
13 that the Board could take to expedite getting an
14 answer that you would recommend to us.

15 MR. MATHEWS: You can make a
16 recommendation. Make a recommendation to us.

17 CHAIRPERSON BRICKEY: Okay. We'll take a
18 look at that.

19 MR. GRIMES: Is this the entire time we
20 have to talk about the transition questions here? Is
21 this our time to ask about that? Because I sure need
22 to understand why there's partial implementation in

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1 April and then the rest in October. Why can't it all
2 be October?

3 CHAIRPERSON BRICKEY: Well --

4 MR. GRIMES: It seems like to me it brings
5 up a lot of issues to a lot of things. What motivates
6 the start?

7 MR. MATHEWS: Well, what you're saying is
8 that you don't want us to announce any accredited
9 certifying agents until October.

10 MR. GRIMES: Whatever the mechanism is. I
11 don't know about announcing it then, but, you know,
12 allowing the implementation sooner for some than
13 others seems to be causing a bit of question. I need
14 to understand why would we do it in April instead of
15 waiting until October.

16 MR. MATHEWS: It was an 18 months
17 implementation period that we wanted to get everybody
18 out of the shoot as quickly as possible with
19 essentially six months as a transition period for
20 those producers to choose a certifying agent.

21 MR. GRIMES: So just in case the other
22 ones weren't going to get accredited, they would have

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1 that six months choice.

2 MR. MATHEWS: Right. What happens is if a
3 certifying agent doesn't pass muster, then you're out
4 of business through no fault of your own.

5 MR. GRIMES: But then satisfying that
6 final rule the way I understand it is some of that
7 will have to be satisfied prior to October. It is one
8 thing to choose a certifier. It's another thing to be
9 implementing rules prior to that date.

10 I've just heard rumors. I'm actually
11 trying to get this state of affairs. Are certain
12 producers going to have to be living underneath the
13 terms of the new rules starting with when their
14 creditor gets certified from that point forward,
15 April, and the other ones will have until October?

16 MR. MATHEWS: Yeah, that's definitely a
17 different question. What we have said all along is
18 that certifying agents should be transferring right
19 now, transitioning their clients into full compliance
20 with the regulations as they exist.

21 MR. GRIMES: And I'm asking what the
22 finish line is.

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1 MR. MATHEWS: Okay. The finish line is
2 October 21st of 2002.

3 MR. GRIMES: For all certifiers.

4 MR. MATHEWS: All certifiers, all
5 operations. What we've said is that part of
6 demonstrating your ability to comply with all of the
7 rules is demonstrated through at least converting some
8 of your people to these rules.

9 All producers and handlers that are
10 certified by the certifying agent who receives
11 accreditation are grandfathered into our program on
12 the day of accreditation.

13 If they are not 100 percent compliant,
14 they have until the next cycle date for when they have
15 to do their annual update to come into full
16 compliance. Anyone who wants to be a certifying agent
17 absolutely has to be accredited by October 21st of
18 2002. Anyone who wants to claim that their product is
19 organic has to be certified by an accredited
20 certifying agent by October 21st of 2002.

21 MR. GRIMES: But if I'm a producer
22 applying in June to an accredited certifier, I need to

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1 comply with the final rule at the time of application.

2 MR. MATHEWS: Okay, yes.

3 MR. GRIMES: So that transition --

4 MR. MATHEWS: Yes, yes.

5 MR. GRIMES: -- this difference in it.

6 MR. MATHEWS: Yes.

7 MS. BURTON: One of the areas of concern,
8 I think, that everybody is trying to get out is that
9 if I'm a producer and my certifying agent becomes
10 accredited in April, then by law they're mandated to
11 certify me under the NOP rule.

12 MR. MATHEWS: Yes.

13 MS. BURTON: If there's an area of
14 noncompliance, such as the material is not on the
15 national list, I'll be issued a letter of
16 noncompliance, but I still have until October 21st to
17 come into compliance with my labeling, with the
18 labeling of my finished goods, correct? Does that
19 make sense to you?

20 MR. MATHEWS: No.

21 MS. BURTON: Okay.

22 MR. MATHEWS: What we're saying is

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1 materials is a problem areas, and that is one of those
2 areas that we're still going to have to address.

3 MS. BURTON: Okay.

4 MR. MATHEWS: When it comes down to all of
5 the other issues, it's pretty straightforward. Upon
6 accreditation, the certifying agent will have to hold
7 all of its new clients to the standards. All of those
8 individuals who are up for their annual renewal will
9 have to be brought into total compliance.

10 Materials is a problem area that has not
11 been fully addressed yet.

12 MS. BURTON: Okay.

13 MR. LOCKERETZ: But what happens if you've
14 been working with a certain certifier, and not until
15 the 21st did you learn that that certifier was not
16 accredited? What do you do?

17 MR. MATHEWS: That's a business decision.

18 MR. LOCKERETZ: What are the options since
19 the growing season has started already?

20 MR. MATHEWS: You may have to get yourself
21 a new certifying agent. I would talk to the
22 certifying agent and find out why they hadn't been

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1 accredited. Maybe they hadn't even applied.

2 MR. SIEMON: But what if they've applied?

3 Is there going to be some level of assurance that
4 they'll get accredited by the date or is this going to
5 be --

6 (Laughter.)

7 MR. MATHEWS: No, no. We won't guarantee
8 that anybody gets accredited.

9 MR. SIEMON: Six domestic people is not
10 too many.

11 MR. MATHEWS: Well, that's what's applied
12 so far. Now, Beth was telling me as late as last
13 Friday that what, 20 are your estimate that will be in
14 by the 21st?

15 PARTICIPANT: I think that we can expect
16 somewhere around 20 applicants during this week and
17 Monday and Tuesday of next week.

18 MR. SIEMON: So you do expect the bulk --

19 MR. RIDDLE: Twenty additional?

20 MR. MATHEWS: Yes.

21 PARTICIPANT: Yes.

22 MR. LOCKERETZ: Well, come April 21st the

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1 growing season has started already. You have a
2 rotation you're following and so forth. If you learn
3 as late as April 21st that your certifier is not
4 accredited, you're going to have real problems.

5 MR. MATHEWS: Yeah.

6 MR. WELSH: But you could start
7 contracting your certifier right now and try to find
8 out whether they had applied.

9 MR. SIEMON: You could find out whether
10 they've applied. I can't learn whether they have made
11 it.

12 MR. MATHEWS: Well, we can't guarantee
13 that anybody is going to be successful in their
14 application.

15 CHAIRPERSON BRICKEY: Nonetheless, what
16 you're going to have to do is come up with some kind
17 of assurance that those with completed applications
18 will be evaluated, right?

19 MR. MATHEWS: Yes, that's right.

20 MR. BANDELE: I have a question. If the
21 greenhouse standards are in place in October, that
22 means that those greenhouse growers cannot label their

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1 product organic?

2 MR. MATHEWS: Well, that's what we just
3 spoke about a few moments ago where the Board can make
4 a recommendation on how they want that handled, and
5 then we'll take that to the attorneys and get a ruling
6 out of the attorneys on all products that you think
7 are important to have a ruling on as to whether or not
8 they can continue to claim them organic beyond October
9 21st of 2002.

10 MR. BANDELE: Let me ask you. Apparently
11 mushrooms and greenhouse, they have both been out for
12 comment, and they'll go out again even before. Is it
13 possible in light of that then to expedite the
14 process, to shorten that three-month period because of
15 the fact that they were put out for comment before?

16 MR. MATHEWS: I can't guarantee what's
17 going to happen. Okay? My recommendation on both of
18 those will be that we go with an interim final rule.
19 Whether that is accepted or not I don't know.

20 An interim final rule is basically saying
21 this is a final rule, but we give people an
22 opportunity to comment on it, and then later it's

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1 finalized.

2 But in the meantime, it becomes the
3 regulation subject to tweaking around the edges.

4 MR. KING: And in your experience, how
5 long would that interim period be? I mean, are there
6 examples of this with other regulatory issues?

7 MR. MATHEWS: Yeah, but again, we're
8 probably talking a nine-month process.

9 MR. KING: Nine months?

10 MR. MATHEWS: Yeah, because it's got to be
11 written at this end. You're writing it just like it
12 was a -- instead of being a proposal, it's an interim
13 final. You're still asking for comments.

14 It will have to be followed up later with
15 a final rule, but essentially what you're telling the
16 public is unless there's some real serious problems
17 with this thing, this is the final rule.

18 MR. HARPER: That's very common in like
19 FDA to do an interim final rule.

20 CHAIRPERSON BRICKEY: It's common in USDA
21 as well.

22 MR. MATHEWS: Now, that's quite possible

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1 to do with greenhouse and mushrooms, and my argument
2 would be that, you know, it's already been on the Web
3 site. You've gotten some comments in. You've fine
4 tuned it, but again, that's entirely up to the
5 attorneys.

6 It's up to other decision makers on up the
7 chain. It will also be up to OMB. So I cannot
8 guarantee you that we would be successful in taking
9 that route, but that is the route that we would like
10 to take with those two areas.

11 MR. RIDDLE: I'm just wanting to be clear
12 on what you're saying or suggesting, a recommendation
13 from the Board. How that could be structured or what
14 exactly our target is on how to handle -- we would be
15 recommending that there be an expedited process, or
16 are you saying it would be a recommendation on how the
17 operations could continue to claim and make an organic
18 label claim in certain categories where we've had a
19 draft in process?

20 Is that -- I just want to be clear.

21 CHAIRPERSON BRICKEY: It could be both.

22 MR. MATHEWS: Yeah, I mean, you are our

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1 advisory committee. You think that you guys have got
2 a great idea for how to resolve the problem of
3 mushrooms, et cetera, not being fully implemented in
4 an organic status through regulation. By October
5 21st, 2002, make a recommendation to us, and we'll
6 take it to the attorneys on how to resolve this issue.

7 PARTICIPANT: I just want to clarify one
8 thing. Earlier we were talking about the applications
9 and how the applications had to be in by October 21st
10 of 2002. Just to clarify, the new applicants can
11 apply any time. A new company that is just starting
12 out, that we will take applications from them after
13 October.

14 MR. MATHEWS: Sure. Applications are
15 always welcome at any time.

16 Along that same line is that once we
17 announce the first group of accredited certifying
18 agents, the others will come out as it goes along.
19 Okay? As we approve one we'll announce it. We're not
20 going to hold any of those back.

21 MR. SIDEMAN: So if we got our application
22 in by October 25th, we should not be months later in

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1 the announcement.

2 MR. MATHEWS: No. I mean, what you have
3 to understand is that we want to work with every
4 applicant to get every applicant who is qualified
5 accredited. Okay?

6 We're going to do this as quickly as we
7 can, and what we've said all along is that the October
8 21, it's not really -- to us it's not that critical a
9 date. To you it's a big deal day. To us what we have
10 said is if you get it in by that date, we guarantee
11 that we will make a decision before we release the
12 first group of accredited certifying agents.

13 After that, if we've got the time, we're
14 going to also make a decision on those people as well.

15 And what is really the determining factor is the
16 quality of the application.

17 The better the application, the more
18 complete the application, the more likely you are to
19 be in that first group. It's not so much whether you
20 were in on the 21st or the 25th or even November 1st
21 or November 15th. Meeting that date isn't as
22 important as making sure that your application is

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1 complete and ready to go.

2 MR. LOCKERETZ: Well, doesn't that date
3 also get you the lower charges?

4 MR. MATHEWS: No, and I wish everybody
5 would take the time to read the fee section of the
6 regulations because I keep getting this question
7 repeatedly.

8 We have told everyone the labor charges
9 are waived until October 21st of 2002. Okay? So it
10 doesn't matter if you get your application in today or
11 any date through November 21st, 2002. There is no
12 labor cost to your accreditation.

13 MR. LOCKERETZ: October 21st.

14 MR. MATHEWS: October 21st, 2002.

15 And I know Carolyn was looking at her
16 watch hoping that we'd move things along.

17 (Laughter.)

18 MR. SIDEMAN: I have one point of
19 clarification. You said something that I had a
20 different opinion of before. My understanding was
21 that if a certifier gets accredited in this first
22 round, that the farmers that are certified by that

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1 certifier actually can have minor infractions during
2 this year. They don't have to come into full
3 compliance until October.

4 MR. MATHEWS: And that's exactly what I
5 said.

6 MR. SIDEMAN: Okay.

7 MR. MATHEWS: You are grandfathered in on
8 the day that your certifying agent becomes accredited.
9 Now, he may have a grandfather clause of one day or
10 364 days. It depends on when your annual update is
11 due. Okay?

12 MR. SIDEMAN: Okay.

13 MR. MATHEWS: The bottom line is this.
14 Anybody who is up for annual update will have to come
15 into compliance at that time fully. Anyone who is
16 new, a new client will have to be in compliance
17 immediately. The only ones getting the grandfather
18 clause are those that were already certified prior to
19 the date of accreditation.

20 MR. RIDDLE: Oh, well, now I'm just a
21 little confused.

22 (Laughter.)

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1 MR. RIDDLE: And this one normally I'm
2 not. I get confused on other thing. I now have heard
3 it two different ways. Because I thought you said all
4 operations have to be in full compliance by October
5 2002, but now you said they have to be in compliance
6 by their annual date of renewal.

7 MR. MATHEWS: Let's try it one last time.
8 A certifying agent gets accredited on April 21st.
9 They certified somebody on April 1st. The April 1st
10 client is grandfathered in. Hopefully the April 1st
11 client is pretty darn close to perfect. Okay? Total
12 compliance.

13 But let's assume that the April 1st client
14 is not. The April 1st client has until April 1st of
15 2003 to be brought fully into compliance. Okay?

16 MR. RIDDLE: Okay.

17 MR. MATHEWS: I have my annual update on
18 April 29th. Jim got accredited on April 21st. On
19 April 29th, my grandfather clause ends. I have to go
20 into full compliance. Jim, the certifying agent, has
21 Mark, the new client, come to it. Mark has to be in
22 full compliance before he gets his certification.

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1 MR. SIDEMAN: Okay, Rick. This is a tough
2 one that's specific to the way different certifiers
3 work, and we don't have a specific renewal date. We
4 actually go from inspection to inspection. That has
5 to be done annually, but we can't guarantee that we're
6 going to get the inspector out there by April 29th,
7 even though that was the date we had them there last
8 year.

9 MR. MATHEWS: Well, we're looking for you
10 to do it by the annual date, one year. That's what
11 we're requiring.

12 MR. SIDEMAN: One year from the last
13 inspection? One year from the last time --

14 MR. MATHEWS: When did you -- when did you
15 issue the certificate?

16 MR. SIDEMAN: They're all different dates.
17 Each of our growers have a different date. We issue
18 the certificate --

19 MR. MATHEWS: Okay.

20 MR. SIDEMAN: -- after we read the
21 certification, inspector report.

22 MR. MATHEWS: But we're not saying all

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1 clients have to come into compliance on the same date.

2 If you issued Mark a certificate on May 1st and Diane
3 a certificate on June 1st, you'd take care of Mark on
4 May 1st of the next year and then Diane --

5 MR. SIDEMAN: That's a different procedure
6 for us.

7 MR. MATHEWS: Well --

8 MR. SIDEMAN: That's a good thing. So one
9 year from the last time we offered --

10 MR. HARPER: On the processor side you've
11 got the same. Like if you use 20 different processing
12 plants, every one of those come down on a different
13 day. You don't have an annual of all 20.

14 CHAIRPERSON BRICKEY: You do now.

15 MR. MATHEWS: You do, yeah, because all we
16 said is that in the regs. it says the annual date.
17 That's when you have, up until then.

18 MR. LOCKERETZ: Rick, can we apply this --

19 MR. MATHEWS: So certifying agents are
20 going to have to adjust.

21 MR. LOCKERETZ: Do we have to apply this
22 principal to the greenhouse and mushroom growers and

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1 say that if you've been a greenhouse or a mushroom
2 grower certified by some agent and that agent gets
3 accredited April 21st of 2002, that you can grow your
4 2002 year under the certifier's mushroom or greenhouse
5 standards, and therefore, be allowed to sell product
6 after October of 2002?

7 MR. MATHEWS: Sell your Board on it and
8 get it voted on. I mean, you guys are the ones that
9 have got to come up with the recommendations.

10 MR. LOCKERETZ: That would be a great,
11 great grandfather.

12 (Laughter.)

13 MR. MATHEWS: Dave?

14 MR. CARTER: What if you had a state that
15 had been doing some things, just doing crops in the
16 past and they get certified while you're trying to get
17 some legislation passed to bring livestock into it?
18 Can they get part of it certified under the
19 grandfather and bring part of it in? How does that --
20 how does that work?

21 MR. MATHEWS: Wait a minute.

22 MR. CARTER: We've got a state

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1 certification program that just does crops.

2 MR. MATHEWS: Right.

3 MR. CARTER: It's going to take
4 legislative authority at the state to bring -- to get
5 schooled up for livestock.

6 MR. MATHEWS: Okay.

7 MR. CARTER: So it's going to be hardly
8 likely that you're going to have that done before
9 April of next year. Can we start giving their crop
10 site certificate then while you try to get the
11 livestock school up?

12 MR. MATHEWS: I'm not following you.

13 PARTICIPANT: I'm following it. You can
14 amend your accreditation at any time.

15 MR. MATHEWS: Okay, okay. That was the
16 question?

17 MR. CARTER: That was the question.

18 MR. MATHEWS: Okay. Unless there's any
19 direct questions that you've got now, why don't we
20 just move on.

21 CHAIRPERSON BRICKEY: Okay. Anything
22 else?

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1 (No response.)

2 CHAIRPERSON BRICKEY: All right. Then
3 let's move to Eric to talk about issues involved in
4 some positions we're going to take on livestock
5 issues.

6 MR. SIDEMAN: Does everyone have the
7 agenda in the audience or not? Everyone here at the
8 table?

9 Okay. So the issues that we're going to
10 address are the ones here listed on the agenda, and
11 the first one is access to pasture, which was
12 presented at the last NOSB meeting, and was on the
13 Web, and we received a bunch of different comments,
14 and actually we only made minor changes based on those
15 comments because it had previously been around and
16 received previous comments even before it got posted
17 on the Web.

18 And the only change that you'll see in
19 here of what's printed -- I think Mark's handing them
20 out right now -- from what was on the Web was where
21 the actual rule is presented.

22 By the way, let me back up one second

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1 because there was some confusion about what this is.
2 This is not changing the rule. This does not have to
3 go through rulemaking. What this really is is a
4 clarification of the term "access to pasture" that is
5 in the rule. This is a recommendation from the
6 livestock committee, hopefully coming from the full
7 Board if they vote for it, to the NOP of what we think
8 they mean when they say "access to pasture."

9 And we broke down our recommendation into
10 a number of different sections. For those of you who
11 haven't read it yet, although I'd be surprised if
12 anyone here has not read it, into intent, benefits of
13 pasture, and then there's the actual recommendation
14 from the committee, which is on my second page, and
15 it's titled "NOSB Livestock Committee Recommendation,
16 Recommended Standards, Access to Pasture for
17 Ruminants."

18 Now, back to where I was. The only change
19 that we made base on comments was right down at the
20 end, 3(b). Beef animals during final stage of
21 finishing, we had 120 days, and we had some pretty
22 strong recommendations. It was too long, and the

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1 committee reduced that to 90 days.

2 Are there any questions from Board
3 members? Yes.

4 MS. BURTON: I attended that OTA Quality
5 Assurance Council meeting yesterday, and then I think
6 Tom Hutchinson also commented that OTA still had some
7 comments on this policy. I was just wondering if we
8 do push this forward, those comments will not be taken
9 into account.

10 MR. SIDEMAN: Well, I was wondering if
11 they're new comments. We've had a lot of comments.

12 MS. BURTON: Yeah, I guess that's my
13 question also.

14 MR. SIDEMAN: Yeah, because we've heard a
15 lot of comments, and they're really coming down to
16 none of them being new anymore. We made our decisions
17 and considered all of those various comments, but the
18 ones we've been getting recently are comments that
19 we've heard before.

20 MS. BURTON: Kelly, you're co-chair of the
21 Livestock Committee for OTA?

22 MS. SHEA: Yes.

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1 MS. BURTON: Is that correct?

2 MS. SHEA: Yes.

3 MS. BURTON: Have you guys got all of your
4 comments in on this policy?

5 MS. SHEA: OTA submitted its comments by
6 the deadline of the 30th, and you got a copy of the
7 OTA's comments and read them over, and then George can
8 also note that in the last OTA livestock subcommittee
9 that met the other day, we mainly dealt with the
10 issues of interpretation of access to the outdoors for
11 poultry and interpretation of replacement animals.

12 And there was a survey that was done, the
13 OTA task force survey, the pasture task force, and I
14 think what Tom was referring to was the compilation of
15 the survey where the task force surveyed the
16 certifiers and surveyed the producers, and I think
17 that's what he was referring to.

18 MR. SIDEMAN: I mean, the Livestock
19 Committee did see that survey when it went out. The
20 results haven't been compiled yet, but we --

21 MS. SHEA: Right, the results haven't been
22 compiled yet.

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1 MR. SIDEMAN: And from what Tom reported
2 from a preliminary review of those results, I think
3 they're going to be in line with what we were
4 expecting to see.

5 CHAIRPERSON BRICKEY: And that was?

6 MR. SIDEMAN: More than 50 percent of the
7 farms have 30 to 50 percent of their fee for their
8 ruminants from pasture, and --

9 MS. SHEA: That's certain of the
10 ruminants. Does he know that that didn't include all
11 lactation animals, that there was a difference between
12 lactating and 75 percent of the results are from --
13 actually Horizon farmers in the northeast that are
14 certified by certification agencies that require
15 access to pasture already so that it ends up giving a
16 little --

17 MR. SIDEMAN: So it's very biased.

18 MS. SHEA: But it's still good data and
19 good information, but it --

20 MR. SIDEMAN: And I think for the most
21 part supports the recommendation that our committee is
22 making.

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1 CHAIRPERSON BRICKEY: What do you mean
2 that it's biased?

3 MR. SIDEMAN: Oh, it's biased that 75
4 percent of the data came from farmers that are
5 certified by certifiers that require --

6 CHAIRPERSON BRICKEY: They're required.

7 MR. SIDEMAN: Yeah.

8 CHAIRPERSON BRICKEY: So it's mostly the
9 northeast that requires this condition?

10 MR. RIDDLE: I would say no. It's just
11 that's where the survey results came from, but, no,
12 that's common.

13 CHAIRPERSON BRICKEY: So which parts of
14 the country don't require it?

15 MR. RIDDLE: I don't think that's what you
16 meant. You just meant the survey was focused on --

17 CHAIRPERSON BRICKEY: Yeah, I understand
18 what he meant. I'm just asking the question.

19 MR. SIDEMAN: She's asking what certifiers
20 or what regions are not required. I think some of the
21 private certifiers don't require pasture, but I don't
22 know of any. Marty, your --

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1 PARTICIPANT: Industry standards on the
2 AOS.

3 MR. SIDEMAN: AOS requires it. Are there
4 any certifiers in the room who know that their
5 standards do not require pasture?

6 PARTICIPANT: Up until a couple of weeks
7 ago ours in part accessed the outdoors. They now are
8 part of pasture.

9 CHAIRPERSON BRICKEY: Some of the people
10 I've been hearing from on some of the dairy farmers
11 say that this is going to be a real burden for them,
12 that they're not required to do it now, and that
13 they're not in a situation where they can meet those
14 requirements.

15 Who is certifying them?

16 MR. SIDEMAN: Well, do you want off the
17 record?

18 CHAIRPERSON BRICKEY: No.

19 (Laughter.)

20 MR. SIDEMAN: Turn off the lights. I
21 suspect what's happening now is that a lot of
22 certifiers are being really lenient and letting some

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1 farmers get certified even though they're sort of at
2 the fringe of using pasture, and that this is telling
3 NOP that we want to tighten that up some, that there's
4 always going to be a lot of variance in how much
5 pasture a farm is using, and we want to see less
6 variance.

7 MS. SHEA: If I could point out the way
8 the questions about the survey went, it was actually
9 questions about what you did before the NOP final rule
10 came out. I don't think there's a single certifier
11 today that's not requiring access to pasture as
12 defined in the rule: nutritive value, water quality,
13 managed.

14 But the survey which was begun before
15 Austin last year, the question in the survey is what
16 did you do before the NOP final rule came out. So I
17 think we're having a disconnect here.

18 MR. SIDEMAN: And I think there's a really
19 good point there, that a lot of the certifiers require
20 access to pasture, but then they had varying language
21 on what that means, and we're trying to narrow that
22 down.

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1 In New England --

2 CHAIRPERSON BRICKEY: Well, that's what I
3 want to know, is how are these folks impacted by
4 narrowing it down.

5 MR. SIDEMAN: In New England, for example,
6 most of the certifiers there say that the pasture has
7 to have edible forage in it. We're going a little bit
8 beyond that, and some certifiers may think putting
9 animals out in a grassy field may be enough whether
10 there's anything to eat there or not, and we're trying
11 to straighten that up and saying that there has to be
12 a significant amount of food coming from the pasture.

13 Did you have a question?

14 MR. RIDDLE: Yeah.

15 MR. SIDEMAN: Wait before you go on.
16 Other members of the committee, come in. Go ahead. I
17 may need help with answering this.

18 MR. RIDDLE: Okay. Yeah, well, I think
19 it's really well done. I like what I've read. I
20 didn't have anything except one question mark, and
21 that is about in brackets on the actual numbered
22 section here where it says, "Note: recommendations

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1 for other ruminant livestock are being developed."

2 Can you expand on that and how can we
3 endorse I guess it's guidance language? It's not a
4 recommended standard so it's not so critical, but what
5 exactly does that mean? What's the follow through
6 with that?

7 MR. SIDEMAN: These recommendations here
8 are giving more detailed guidance, pasture
9 requirements for cows, beef and dairy producing cows,
10 and that we're hoping to work on more detailed
11 standards for sheep and for goats and other ruminants
12 as we go along.

13 CHAIRPERSON BRICKEY: And why would they
14 have different standards conceptually?

15 MR. SIDEMAN: Well, it has to do with
16 number three here, berry stock under six months of
17 age. That's really too long for lambs because lambs
18 are essentially finished at six months of age. So
19 that's going to be a different number, and beef
20 animals, during finishing period, you're allowed to
21 take them off pasture for 90 days. That's really way
22 too long for sheep, too, but we weren't able to get

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1 enough comments from producers of those ruminants, for
2 example, to come up with --

3 MR. RIDDLE: So is there any plan for
4 continuing this work?

5 MR. SIDEMAN: Yes. That's why it says
6 that.

7 MR. RIDDLE: That would be in the
8 Livestock Committee's work order or work plan.

9 MR. SIDEMAN: That's right. Essentially
10 we're going to polish up what stage of production
11 means. I believe in the rule that it uses the term
12 "stage of production." It may qualify the requirement
13 perhaps in the pasture, and this is what we're saying
14 here.

15 That production includes dairy stock under
16 six months of age don't need to be in pasture, but
17 lamb is going to have a different number.

18 CHAIRPERSON BRICKEY: Another question I
19 have is what have we gotten back in comments or have
20 not gotten back in terms of the impact on organic feed
21 producers?

22 MR. SIDEMAN: I don't understand the

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1 question.

2 CHAIRPERSON BRICKEY: How would they be
3 economically impacted by this requirement?

4 MR. SIDEMAN: You mean be less dependence
5 on feed from off the farm because of requiring
6 pasture?

7 CHAIRPERSON BRICKEY: Yes.

8 MR. SIEMON: I don't think it's a real
9 factor personally. It's still the same number that
10 you feed the animals whether they're raised on the
11 farm or on pasture or I mean it's the same amount of
12 organic land that has to be in production. It's the
13 same amount of feed that has to be produced. It's a
14 matter of stored feed or green.

15 MR. SIDEMAN: I think the bigger impact is
16 going to be on readjusting what the land has used for
17 on the farm. Some people are growing silage, going
18 and bringing it to the bar, and they may have to take
19 some of that silage land and turn it into pasture
20 land.

21 CHAIRPERSON BRICKEY: Did we get much
22 comment on this question?

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1 MR. SIDEMAN: Not from off farm interests.
2 We got a lot of comment from some growers who don't
3 quite have enough pasture on their farm, and for
4 various reasons they've brought their -- they have
5 land in which they grow their own feed, but they bring
6 it to the cows rather than bringing the cows to the
7 land.

8 And we considered that comment, but the
9 committee as a whole is making the recommendation that
10 the pasture is important and that these farms be
11 reorganized to fit this recommendation.

12 MR. HARPER: What was the vote on the
13 committee?

14 MR. SIDEMAN: I think it was unanimous.
15 Does anyone remember differently?

16 MS. KOENIG: Eric, on the significant
17 portion verbiage there, how is that going to be
18 quantified? Is the certifier then going to measure
19 that?

20 That's a wording that --

21 MR. SIDEMAN: That was the point that Rose
22 is bringing up, is the significant portion. That was

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1 a point of significant controversy, and we had
2 probably -- George is gone because I wish he were here
3 for this one.

4 We probably had an equal number of people
5 who wanted various numbers put in there. Some people
6 wanted no number. Some people just wanted to say that
7 farms were using pasture. Some people put in specific
8 numbers and said seven percent of the feed has to come
9 from pastures. Some people said 30 percent.

10 And the committee felt that when you're
11 writing a rule for the whole country, and Richard
12 probably understands this really well, that these
13 numbers that are recommended may fit this particular
14 region's recommendations, but it's really hard when
15 you write a rule for the whole country.

16 Significant is going to mean something
17 different wherever you are, but it means significant,
18 and I think anyone here is going to look at this and
19 say if somebody is putting the cows out on pasture for
20 a couple of days a year, that's not significant, and
21 there's going to be some gray area.

22 Dave Engel's comments, I think he hit the

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1 nail right on the head. Ten percent is probably not
2 significant. Twenty percent of the feed is probably
3 getting close to significant. What we're probably
4 looking at is someplace between 30 and 50 or 60
5 percent of the feed, is what we're considering a
6 significant portion of the feed.

7 And whether it's 30 or 25 or 75, it's
8 going to be up to the certifier, and they're going to
9 look at the different situations on a particular farm.

10 So --

11 CHAIRPERSON BRICKEY: So we don't have a
12 scientific basis for saying it's 20 instead of 50 or
13 50 --

14 MR. SIDEMAN: No, but within the farm
15 plan, and this is George's language, and I think it's
16 really important, the farm plan has to show how that
17 particular farm is maximizing the use of pasture.
18 There was some comment, and I think it may have come
19 from OTA. Correct me if I'm wrong. They wanted to
20 change the word to manage the use of pasture. To us
21 that didn't mean -- that wasn't really a rule at all.
22 Everyone's managing their pasture. We wanted it to

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1 say they maximized the use of pasture.

2 MR. RIDDLE: So it comes down to an
3 organic plan, case by case, region by region
4 application, but to bring consistency to this, then it
5 really would fall to the accreditation process when
6 files are reviewed and site visits are conducted if a
7 certifier is not applying, you know, a significant
8 course and requirement.

9 MR. SIDEMAN: Right.

10 MR. RIDDLE: Then they could be out of
11 compliance with the NOP.

12 MR. SIDEMAN: I think that's right.

13 MR. RIDDLE: Is that really the control
14 point here?

15 MR. SIDEMAN: Yeah, I think you're just
16 going to the control point of certifiers as being
17 lenient on this and allowing farms to come in that are
18 not maximizing the use of pasture.

19 CHAIRPERSON BRICKEY: Now, this particular
20 recommendation applies only to these two types of
21 ruminants, and you've explained a little bit why other
22 ruminants aren't included. What about other types of

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1 animals?

2 MR. SIDEMAN: They're going to be dealt
3 with by the Livestock Committee, too, and the access
4 to -- well, first of all, the rule, if I remember
5 correctly, only requires access to pasture for
6 ruminants. So the other types of animals will not
7 have access to pasture, but they do have to have
8 access to the outdoors, and we're going to deal with
9 that. That's on our work plan, and that will include
10 the other animals you're thinking of.

11 MR. MATHEWS: Let me clarify in this area.
12 You're saying that this is not for amendment of the
13 rules.

14 MR. SIDEMAN: Right.

15 MR. MATHEWS: But more for the program
16 manual --

17 MR. SIDEMAN: Right.

18 MR. MATHEWS: -- as guidance to the
19 certifying agent.

20 MR. SIDEMAN: That's right. That's right.

21 Mike?

22 PARTICIPANT: The only possible exception

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1 to that would be the specific stage of production
2 exemptions. Those might be more appropriate in the
3 Federal Register because you've got set times.

4 MR. SIDEMAN: And I don't think the
5 committee would have any objection to the NOP using
6 this information the way they felt is best to get the
7 farmers to meet these requirements. If you felt that
8 it should be part of the rule, then so be it, but we
9 meant it as a clarification of what access to pasture
10 which is written in the rule means.

11 MR. MATHEWS: Well, if you're going to
12 want to a rule change, you're going to have to make
13 a --

14 MR. SIDEMAN: We are not asking for it.
15 We are not asking for a rule change. We're asking for
16 this to be in the program manual, but if NOP feels
17 that there should be a rule change, we'd be open to
18 that suggestion, I believe.

19 MR. RIDDLE: Well, you'd want to catch the
20 other species up before you move forward with a rule
21 and cover up all the other species.

22 MR. SIEMON: We're also trying to make

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1 sure it was clearly a foreign plan issue so there
2 wasn't an arbitrary, you know, cut off the hands
3 instead of leading a process to get to satisfying
4 this.

5 MR. SIDEMAN: That's a really good point.

6 MR. SIEMON: It's going to be really hard
7 to know, you know, the age groups. There are so many
8 different age groups on these farms that it's a very
9 complex question, seeding down land, age groups,
10 defensibility. It's not just a simple right or wrong.
11 It has to be an ongoing process to a certain degree.

12 CHAIRPERSON BRICKEY: George, is it your
13 opinion that a number of dairy producers won't be able
14 to meet this guidance?

15 MR. SIEMON: Yeah, there will be a certain
16 percentage of them that won't be able to meet this. I
17 don't know what that means for sure, but I'm sure
18 there'll be some negative fallout of this. Whether
19 it's five percent or what, you know, it depends,
20 again, how arbitrary we are or what the right word is
21 where we enforce it too quickly. That's why the
22 foreign plant is so important. It's to give, okay,

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1 you know, what are you doing, what's your plans, where
2 are you going, and how are you getting there, is what
3 we're trying to set up here instead of just cut off
4 hands.

5 But there are farms that have physical
6 limitations. They're built up between a road and a
7 steep hillside, and they only have so many acres.
8 Those are the farms that are really going to be
9 challenged by this.

10 MR. SIDEMAN: George showed us one of
11 those farms when we were on the bus in Lacross. I
12 think that's probably going to drop out, and I know
13 that in New England you'll see a handful of farms drop
14 out, but I think what you're going to see is the
15 majority of the farms that were certifying meet this
16 standard already. It's going to be a fairly large
17 number that are going to have to do a lot of work to
18 come into compliance, and then there will be a really
19 small number that just can't make it because of the
20 way their buildings are set up.

21 MR. SIEMON: And to answer the question
22 earlier, no matter what the certifiers say, it's not

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1 being enforced right now overall, and it's a way big
2 percentage or not doing the task, and a way big
3 percentage wouldn't qualify today if you took a snap
4 shot. I think it's closer to 50 percent are being
5 handled most effective here don't qualify today.

6 CHAIRPERSON BRICKEY: And do we have any
7 sense of what the costs are to comply?

8 MR. SIDEMAN: That's going to vary from
9 farm to farm.

10 CHAIRPERSON BRICKEY: Of course.

11 MR. SIDEMAN: I know one farm that we
12 certify right near me, and I'm good friends with them.
13 They're going to spend a lot of money coming into
14 compliance. They're going to have to build a new barn
15 in a different place and move some of their animals up
16 there that are not required to be in pasture, the
17 young animals that fall under six months of age are
18 going to be housed on a different farm, which opens up
19 more pasture on the home farm for the milkers, and
20 that's some of the kinds of rearrangements that some
21 farms are going to have to make.

22 And they're willing to do it. We have not

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1 had complaints in New England, and that's the only
2 place I'm really familiar. In New England, our
3 farmers are really in favor of this, even the ones who
4 are not in compliance now.

5 MR. SIDEMAN: Diane?

6 MS. GOODMAN: I have a real question about
7 this, and it's always been on my mind. I've brought
8 it up a few times, but I've never heard it addressed
9 by the committee, and this is how we require that a
10 significant portion of the feed come from pasture. Do
11 you put any guidance on the quality of pastures?

12 Because the dairy farms that I've been to,
13 there's a widely varying degree of quality of pasture.

14 So just because the animals are eating
15 what's out there, that may contribute to a significant
16 proportion of what it is the animals are eating. What
17 is there to guarantee these animals are getting the
18 full nutritive component they need from this pasture?

19 MR. SIDEMAN: That's why it's not a land
20 care based rule. A significant portion of the feed,
21 they're going to have to get the nutrients to produce
22 the milk for that farm to be successful. If the

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1 pasture they're on now is not providing that
2 nutrition, they're going to have to make that pasture
3 better.

4 MS. GOODMAN: Are the certifiers going to
5 be able to --

6 MR. SIDEMAN: Well, the farmers are going
7 to be able to because they'll see if they're putting
8 their animals on pasture longer and the pasture is not
9 good enough. Their milk production is going to go
10 down. The farmer is going to have to say, "Well, I'm
11 going to have to make this pasture better if I'm going
12 to meet this rule."

13 CHAIRPERSON BRICKEY: Okay.

14 MR. SIDEMAN: In a way it's supporting --
15 it's an agronomic justification for this.

16 CHAIRPERSON BRICKEY: Let's move on to
17 your next item.

18 MR. SIDEMAN: For clarification, we vote
19 on these on Wednesday.

20 CHAIRPERSON BRICKEY: yes.

21 MR. SIDEMAN: Okay. The next item has to
22 do with the request we got from some vaccine producing

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1 companies. Most vaccines that are on the marketplace
2 now have a small amount of antimicrobials within them
3 as a preservative, and we're hoping that this
4 suggestion we're making can be used to change the
5 annotation in the national list that's on vaccines.

6 And essentially we want to say vaccines
7 that are preserved with antibiotics be permitted. So,
8 in other words, we don't want to list antibiotics
9 anywhere on the national list. We just want to change
10 the annotation that's with vaccines. And I don't know
11 if that needs a rulemaking or not, Richard, to change
12 an annotation.

13 MR. MATHEWS: An annotation change will
14 require a rulemaking, yes.

15 MR. RIDDLE: And it's also my
16 understanding that an annotation change would require
17 a TAP review. I mean that's been the message in the
18 past, correct?

19 MR. MATHEWS: I don't think so.

20 MR. SIDEMAN: No, this may not seem
21 important, but it is since a lot of states require
22 certain vaccinations. The NOP decided along with that

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1 that vaccinations be allowed, but the vaccines aren't
2 out there without the antimicrobials in them. So this
3 rule has to be changed soon.

4 Emily.

5 PARTICIPANT: Is this a guidance? Because
6 also seedlings will not be on the natural list as a
7 natural unless you want to make it prohibited.

8 MR. SIDEMAN: Guidance, you mean --

9 (Laughter.)

10 MR. SIDEMAN: Can it be prohibited?

11 (Laughter.)

12 PARTICIPANT: That's a hard one to do. I
13 was asking if you could issue guidance that the --
14 something about the, you know, policy to prohibit any
15 bias does not include incidental antimicrobials in
16 such natural materials as vaccines, and to get around
17 having to do, you know -- pending a review, I would
18 say what you need to do at some point is do a review
19 on what is used in medications, and that they should
20 all be treated uniformly.

21 MR. SIDEMAN: As an antimicrobial we
22 considered it an excipient.

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1 PARTICIPANT: Yes, they're excipients in
2 medications.

3 MR. SIDEMAN: I'm looking for a nod from
4 Joyce.

5 PARTICIPANT: I don't know if that would
6 be good enough, but do you think that this interim
7 guidance on them. It would be sort of what is and
8 what is not an antibiotic. These are not considered
9 antibiotics for this purpose.

10 MR. SIDEMAN: And so we could change this
11 recommendation asking for guidance in the program
12 manuals for what is meant by prohibition on
13 antibiotics, and that it doesn't include
14 antimicrobials and vaccines.

15 MR. RIDDLE: Are you recommending that it
16 does not?

17 MR. SIDEMAN: Yeah.

18 MR. RIDDLE: I'm just asking for guidance.
19 We would be recommending that it does not.

20 MR. LOCKERETZ: Again, this has to be done
21 by April, does it not?

22 MR. MATHEWS: By today, day after

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1 tomorrow.

2 MR. RIDDLE: Well, that's possible to
3 reword that. It doesn't change the intent.

4 MR. SIDEMAN: Committee? Feelings from
5 the Livestock Committee which way we want to go?

6 MR. SIEMON: Will we have to change our
7 tab?

8 MR. SIDEMAN: Yeah, we'd be essentially
9 dropping this, which I really would have like to vote
10 on. I want to get this voted on in this meeting. I
11 don't want to put it off to a different meeting

12 MR. SIEMON: And what was the alternative
13 again?

14 MR. SIDEMAN: That we recommend to NOP
15 that the program manuals have a clarification of what
16 the prohibition on antibiotics is and that it does not
17 include antimicrobials and vaccines.

18 MR. LOCKERETZ: Functionally what's the
19 difference between those two?

20 MR. SIDEMAN: It is an antibiotic. We
21 just --

22 MR. RIDDLE: Yeah. Well, one is an

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1 annotation to the list, which requires timed review
2 and rulemaking. The other is guidance to the
3 prohibition which is in the regulatory text. It's not
4 on the list. So, you see --

5 MR. SIEMON: But the proposal that is
6 before us now, where was that intended to go if we
7 approved it?

8 MR. SIDEMAN: This was as an annotation to
9 vaccines, which is on the list.

10 MR. LOCKERETZ: To be followed by the
11 whole kit and caboodle. They're approving changes for
12 the national list?

13 MR. SIEMON: I don't know that that's
14 required to go through that whole thing. Well, we
15 know what our intent is. We need to be told how is
16 the best way to approach this or the intent is the
17 same either way.

18 MR. SIDEMAN: The intent is the same.

19 PARTICIPANT: Will the material be -- we
20 don't have to have a tab review on every -- just to
21 change to this, do we?

22 (Multiple isolated conversations.)

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1 MR. SIDEMAN: As Vice Chair, I'm declaring
2 a five-minute break right now so we can clarify this.

3 (Whereupon, the foregoing matter went off
4 the record at 3:02 p.m. and went back on
5 the record at 3:14 p.m.)

6 CHAIRPERSON BRICKEY: Let's resume.

7 MR. SIDEMAN: Richard, I didn't get to
8 talk to you because I got cornered, but the way we
9 look, using your own terminology, the way we look at
10 this recommendation, all that the Livestock Committee
11 is actually recommending is that last one, which
12 reads, "The Livestock Committee recommends that
13 vaccines and semen that have antibiotics and
14 antimicrobials added for the sole purpose of
15 preservation of the vaccine or semen be permitted in
16 organic livestock production systems."

17 And I think that's what we should vote on
18 Wednesday, and then leave it up to NOP to find out the
19 best way to do that because I don't want to be too
20 specific and end up in trouble with lawyers.

21 CHAIRPERSON BRICKEY: You don't want to do
22 that.

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1 MR. SIDEMAN: No, though my feeling is hat
2 if you need to do it as an adaptation to vaccines, do
3 it that way. If you can do it in a program manual
4 recommendation, that certainly would be easier. Is
5 that okay?

6 That's what I'd like to recommend.
7 Livestock Committee, does that seem good?

8 MR. MATHEWS: Keep in mind that guidance
9 documents are not regulation and, therefore, can cause
10 you problems on the road for enforcement. So they
11 don't have the force of law behind them.

12 CHAIRPERSON BRICKEY: The patina of law.

13 MR. MATHEWS: Patina?

14 CHAIRPERSON BRICKEY: All right. Next
15 item.

16 MR. SIDEMAN: Jim, question? Go ahead.

17 MR. RIDDLE: There was just one thing that
18 wasn't addressed here that I did have a question, and
19 I don't want us to get in trouble with lawyers about
20 is it clearly prohibits subtherapeutic use of
21 antibiotics, and is there any way that this could be
22 construed subtherapeutic?

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1 I know that usually refers to medicated
2 feeds. It is not a therapeutic use. It's a very
3 small -- I just want to --

4 MR. MATHEWS: It's just a vaccine, which
5 is not going to be required by law anyway.

6 MR. SIDEMAN: It's not a use in the animal
7 benefit at all. So it's not -- really we're
8 preserving vaccine. So it shouldn't be affected by
9 that reg.

10 MR. RIDDLE: Okay. I'm glad we're
11 confident on that.

12 CHAIRPERSON BRICKEY: Next item.

13 MR. SIDEMAN: Next item is you, Jim, with
14 the vote on the apiculture task force recommendations.

15 MR. RIDDLE: Oh, okay. In the book it's
16 methionine.

17 MR. SIDEMAN: Methionine we're going to
18 discuss when we get to materials, right?

19 CHAIRPERSON BRICKEY: Yes.

20 MR. SIDEMAN: Right.

21 MR. RIDDLE: Okay. Well, this all started
22 because I sat next to you in Lacross, I think, Eric.

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1 MR. SIDEMAN: You were across the table,
2 but --

3 MR. RIDDLE: No. When we were looking for
4 someone to chair a task force to do an expedited very
5 disciplined writing of apiculture standards, and
6 luckily two other members of the NOSB agreed to serve
7 on this and in very short order we put together what I
8 think was a very functional and informed task force.

9 The first thing I just want to do is go to
10 the acknowledgements, which is page 5 of this report,
11 and just mention the people's names because I really
12 appreciate the work that was put in by Kim Burton and
13 Dave Carter and Lyn Cody really helped with some of
14 the drafting and submitting information.

15 Also, Harriet Behar from the Inspectors
16 Association; Doug McInnis, Tropical Blossom Honey;
17 Mike Engel, Pure Foods; and Garnett Pruit, an organic
18 beekeeper from Hawaii.

19 But we really had a assistance from a
20 number of entomologists and bee keeping experts across
21 the country that are listed here, and Mark Keating did
22 a wonderful job from the staff help.

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1 So we did come up with a rigorous standard
2 that conforms with the livestock requirements that are
3 in OP and in the rule and that is linked by reference
4 to the rule. So it's presented in draft regulatory
5 text, and hopefully that can facilitate its adoption
6 through the rulemaking process.

7 So we're proposing two definitions right
8 now, and I'm going to get to the handling section
9 later on because it will come back to some additional
10 definitions being proposed, but in the draft in your
11 book, definitions of apiculture and defining the
12 forage zone itself, and I'm not going to read through
13 the text, but I just want to walk through section by
14 section. If you have questions or comment as we go, I
15 think that would be best, and we can make note of it
16 if there's any need for any changes.

17 So a couple of proposed definitions there
18 for the actual production standard, and then we have
19 the draft practice standard itself, and we started off
20 with a proposal of a transition period of 60 days and
21 became aware that under the UE requirement, it's a
22 full year, and under IFO a full year, and there was

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1 support of the task force to make it longer than 60.
2 So it stands right now at 270 days of organic
3 management in the transition process.

4 So that may be one thing where we receive
5 comments once it goes to rulemaking I would
6 anticipate.

7 And then we put a lot of work into the
8 organic apiculture plan, which is Section D, and then
9 the details are the five items at the top of page 2 of
10 the report. So practical things like the map of the
11 forage zone, and they're not limited. The forage zone
12 is not limited only to organic forage, but also wild
13 land being recognized, and there could be nonorganic
14 activities in the forage zone, but in the plan we
15 address in Item No. 4 listing sanitary landfills,
16 incinerators. There's just some suggestions of things
17 which could be sources of contaminants that would need
18 to be listed in the plan.

19 So that's where we really put some
20 prescriptive type listing instead of prohibiting all
21 of those activities necessarily. It really depends on
22 the contamination risk, but they have to be reported

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1 in the plan.

2 And then how much forage is being provided
3 per colony to make sure that there is appropriate
4 organic or wild forage as the predominant food source,
5 and then also addressing a little bit of split
6 operations consistent with the split operation cause
7 in the rest of the rule.

8 Any questions on that?

9 Seeing none, and then other things such as
10 maintaining records, and then here's the type of
11 forage under F that may be provided. Allow the bees
12 to forage on nonorganic land when adequate forage from
13 organic or wild land has been provided. So they have
14 to provide organic or wild, and then once they've
15 provided that, the bees can forage on nonorganic land,
16 and they can provide supplemental feed, organic honey,
17 organic sugar syrup or pollen substitutes if they're
18 allowed under 205.603, if there were any -- of course,
19 the organic honey and syrup wouldn't appear there.

20 But they cannot provide organic sugar
21 syrup less than 30 days prior to the harvest of the
22 honey. So you can't be feed them sugar and then

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1 selling it as syrup. I mean feeding them syrup and,
2 yeah, sugar syrup and then selling it as honey. It
3 has to be 30 days so they can eat up that sugar before
4 they're out foraging for real honey.

5 And then this is another area where I
6 anticipate there will be public comments, is a
7 producer of organic apiculture operation must not
8 maintain colonies in an area where land to which
9 prohibited materials as listed in 205.105 of the rule
10 -- and that includes pesticides, GMOs, et cetera,
11 cannot maintain them where those are applied or where
12 another source of contamination is located less than
13 four miles or 6.4 kilometers from the apiary as
14 described in the organic apiculture plan. So it links
15 to the plan there.

16 At first we had had a very prescriptive
17 listing of prohibited activities, but we moved that up
18 to the plan and then just said the source of
19 contamination cannot be within that four mile zone.

20 And based on the best information we could
21 get from the beekeepers and entomologists, a four-mile
22 radius seems like a very reasonable forage zone. It

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1 all depends on the type of forage, the time of year,
2 the density of the bees themselves, the density of
3 other competing species, the topography, climate, et
4 cetera. But four miles was the general agreement of
5 the radius for the average bee light.

6 MR. BANDELE: So currently then for all
7 those who are dealing with bee keeping, most of those
8 are located greater than four miles on conventional
9 farms?

10 MR. RIDDLE: No, not necessarily. So long
11 as they have organic forage or many of them are
12 actually in wild land areas where the hives are set in
13 wild land. So it may not be all organic, you know,
14 clover fields around it or something like that.

15 MR. BANDELE: I understand that.

16 MR. RIDDLE: Yeah.

17 MR. BANDELE: But if they're located
18 according to this though, they could not be located
19 within a four-mile radius of a conventional farm, if
20 I'm reading it correctly.

21 MR. RIDDLE: Well, it depends on what's
22 being applied. Just because a conventional farm is

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1 conventional doesn't mean necessarily that there is a
2 great contamination risk if the type of crops are not
3 something that would attract a bee at all. So there's
4 nothing to bring the bee to that site where prohibited
5 materials are being applied.

6 See, we tried to link it to the
7 contamination risk.

8 MR. BANDELE: Right. I understand that.
9 It should be that way, but as I read that, I don't
10 think -- that's not implicit to me. I've not seen
11 that written there.

12 MR. RIDDLE: Okay.

13 MR. SIDEMAN: It sounds like it can't be
14 four miles, prohibited --

15 MR. RIDDLE: Right.

16 MR. SIDEMAN: -- even if there's no
17 flowers.

18 MR. BANDELE: Exactly. That's what I was
19 talking about.

20 MR. SIDEMAN: If it's a golf course, and
21 they mow the grass shorter than clover flowers.

22 MS. KOENIG: Jim, is that what you mean in

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1 F-1? That's what I didn't understand.

2 MR. RIDDLE: In F-1?

3 MS. KOENIG: Is that what you're referring
4 to in F-1 when you're saying that --

5 MR. RIDDLE: No, F-1 is the allowed
6 forages. I don't see where -- no, it's really G-1.

7 MS. KOENIG: But you're saying allow these
8 from their operation to forage on nonorganic and
9 managed land.

10 MR. RIDDLE: Right. Yeah, that's where
11 it's saying it can happen, but then G says if there's
12 a contamination risk --

13 MS. KOENIG: Then it can't.

14 MR. RIDDLE: -- then it would not be
15 allowed. So it doesn't have to all be organic, but if
16 there's a source of contamination in that four miles,
17 then it would be addressed through the organic plan,
18 you know, certification.

19 CHAIRPERSON BRICKEY: So you need to read
20 those two sections together.

21 MR. RIDDLE: Yeah.

22 MR. BANDELE: Still, as it's written down

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1 it is not because it says the organic apiculture
2 operation must not. So irregardless of what's in your
3 plan, to me if I'm reading it right, if it's located
4 in four miles of that conventional farm applying
5 pesticides, regardless of whether it's attracting the
6 bees or not, as I read it then it wouldn't be allowed.

7 MR. RIDDLE: Well, but the end of the
8 sentence is "as described in the operations organic
9 plan."

10 CHAIRPERSON BRICKEY: For the sake of
11 time, let me suggest this.

12 MR. RIDDLE: Yeah.

13 CHAIRPERSON BRICKEY: Let's complete your
14 explanation of your proposal. Then you two look at
15 this off line before we can get to it Wednesday.
16 Okay?

17 MR. RIDDLE: Yeah. If you can find any
18 way to help clarify that, I don't think we disagree on
19 intent. It's getting the language to capture what
20 you're saying.

21 Okay. So then approved hive materials,
22 pretty straightforward there. The one controversial

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1 thing is the use of plastic foundation, and we're
2 proposing that it be allowed if dipped in organic
3 beeswax and in a wooden frame.

4 MS. GOLDBURG: Are you going to permit
5 arsenic treated wood?

6 MR. RIDDLE: That's coming up here, yeah.
7 We'll get to that under the final list, which are the
8 "must nots." We didn't think we needed to address
9 that twice. This is the approved hive construction
10 materials.

11 Okay. Then there's a section on
12 preventative health care practices, and we received a
13 lot of expert advice on that section, and once again,
14 it's similar to other things in the rule where you
15 have to do preventative, proactive management first,
16 and then it comes down to use of therapeutic
17 application of nonsynthetic materials, provided those
18 materials are on the list.

19 And then the final section in the
20 production standard here, producer must not accept the
21 presence of pest, parasites, et cetera, without
22 initiating efforts to restore health. So that's

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1 similar to other livestock, and we can't use
2 prohibited materials, can't use treated lumber or
3 lumber treated with synthetic materials not listed
4 under -- not on the list. So that addresses the CCA
5 treated lumber.

6 You can't use prohibited materials in bee
7 smokers, annually destroyed bee colonies for altered
8 honey flows, rotate hives between organic and
9 nonorganic management or sell apiculture products as
10 organic if they contain a residue of prohibited
11 material greater than five percent of the EPA.

12 So any other questions on this part here?

13 CHAIRPERSON BRICKEY: So there wouldn't be
14 any materials you're going to prohibit that were under
15 FDA's purview?

16 MR. RIDDLE: Okay. So this -- how would
17 that -- yeah. That would link to the uric, the
18 unavoidable residual environmental contaminants,
19 something that's prohibited already, and there's an
20 action level set.

21 CHAIRPERSON BRICKEY: Good.

22 MR. RIDDLE: Yeah.

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1 CHAIRPERSON BRICKEY: You might want to
2 think about that between now and Wednesday.

3 MR. RIDDLE: Yeah. Yeah, that's a good
4 point.

5 MS. GOODMAN: Where's that one?

6 MR. RIDDLE: Well, at the end there, J-8
7 only talks about residues of EPA.

8 CHAIRPERSON BRICKEY: Pesticides,
9 pesticides.

10 MR. RIDDLE: Right. It doesn't talk about
11 actual level, residual contaminants, and so I can look
12 at the existing language in the rule and make a link
13 to that. So that's that part.

14 PARTICIPANT: Peter.

15 MR. RIDDLE: Yeah, Bob.

16 PARTICIPANT: Is it clear that a four-mile
17 radius from the apiary -- because when it speaks of
18 with, if you start to define what the radius is, it
19 isn't clear that it's from the center four miles out
20 or four square miles.

21 MR. RIDDLE: Yeah, it doesn't. That's a
22 good point, and I think it should, and it was an

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1 assumption on our part. I think maybe some draft may
2 have it, but we always just assumed it.

3 Yeah, go ahead.

4 PARTICIPANT: I had a quick question.

5 MR. RIDDLE: Yeah.

6 PARTICIPANT: In J-7, does that imply or
7 is there any way that that could be written so that it
8 does not imply that split alterations are not allowed?
9 Because when I read that, it seems to me to prohibit
10 a split operation.

11 MR. RIDDLE: Well, split operations are
12 discussed and addressed in B-5, which certainly
13 indicates that they are allowed.

14 PARTICIPANT: D-5?

15 MR. RIDDLE: No, B.

16 PARTICIPANT: Oh, B-5.

17 MR. RIDDLE: Boy, five. So that's where,
18 and the rule has a definition of split operation.

19 PARTICIPANT: Okay. So we would actually
20 maintain separate operations.

21 MR. RIDDLE: Yeah, in some way. I mean,
22 address that issue in your organic plan

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1 PARTICIPANT: That's fine.

2 MR. RIDDLE: If you do organic, if you do
3 conventional, how do you keep them separate.

4 PARTICIPANT: Thanks.

5 PARTICIPANT: Section G, to me it makes it
6 clear that the conventional armor is only one input,
7 that being calcium nitrate. This is the 3.8 miles.
8 Don't you think that's over prescriptive and something
9 within the skills of the organic agriculturist?

10 MR. RIDDLE: Well, what Pete's comment was
11 for people that didn't quite hear it, is that that G,
12 Section G-1 doesn't really discriminate the
13 contamination risk, that if a conventional farm used a
14 -- you used calcium nitrate, right? Calcium nitrate
15 as an example of fertilizer, and it was 3.8 miles away
16 from the hive. That would still throw it out.

17 So that's what it alludes to. I think his
18 same point is we need to clean up that language to
19 capture the intent of the task force there.

20 At least that's my understanding. I don't
21 know if other members of the task force -- we weren't
22 wanting just a black and white scenario like you're

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1 presenting. We wanted it to be linked to actual
2 contamination risk in that forage zone.

3 PARTICIPANT: The risk is one thing.
4 Managing it can be another. If it is not possible or
5 if it is unmanageable not to have an apiary sited
6 within a couple of miles, to exclude the site because
7 of something that's not even particularly at risk,
8 just the background for one site seems to me
9 impractical.

10 MR. RIDDLE: Okay.

11 CHAIRPERSON BRICKEY: Can you address
12 that?

13 MR. RIDDLE: Yeah, we'll work on that. I
14 appreciate the comment.

15 MR. BANDELE: I have one question. I know
16 wild bees can kind of take over a hive, and I'm
17 assuming that there would be some movement like in a
18 split operation between the bees treated organically
19 and otherwise. So to me I'm not really sure whether
20 that split operation could be applicable without those
21 kinds of problems.

22 MR. RIDDLE: Well, that's why in B-5 we

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1 talk about bee drift and robbing there, that that
2 needs to be addressed in a split operation. You need
3 to approve what measures they take just like for a
4 split crop operation. Show what measures they take.
5 It's not prescriptive though beyond that. They have
6 to address it.

7 MR. BANDELE: But what measure should they
8 take, if any? I don't know.

9 MR. RIDDLE: Well, distance between the
10 actual hives is one thing, you know, predicting wind
11 direction. Anticipating that would be another. You
12 know, feeding practices certainly could be another.

13 MR. MATHEWS: Jim.

14 MR. RIDDLE: Yeah.

15 MR. MATHEWS: Did the task force talk
16 about the fact that actually the normal range is like
17 three miles and not four miles and the fact that if
18 you've got -- I mean, you're already talking about in
19 here that forage needs to be provided organically or
20 wild, but that you would allow the nonorganic --
21 you're coming in here and saying if there's any
22 nonorganic within four miles you can't have honey.

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1 I mean, it doesn't -- I'm not following
2 the logic here.

3 MR. RIDDLE: Right.

4 MR. MATHEWS: Because if you're providing
5 an adequate forage for your bees, they're not going to
6 travel long distances.

7 MR. RIDDLE: Yeah, that certainly was
8 discussed quite a bit, and, you know, I see two
9 different issues, one being, you know, whether it's
10 three miles or four miles, and like I said, the best
11 information -- I mean, yes, in some instances when
12 adequate forage is provided the bees aren't going to
13 go any farther than they have to, and three miles is
14 quite reasonable, but in other instances, we just
15 heard today a request to extend it to seven miles.

16 In areas with low forage, bees are going
17 to travel further, and I've heard also today that a
18 bee will only go four and a half miles based on the
19 energy sources that it leaves the hive with, and so
20 it's going to turn around and come back at four and a
21 half, but --

22 PARTICIPANT: It depends what they are

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1 looking for.

2 MR. RIDDLE: They might travel farther for
3 pollen?

4 PARTICIPANT: Yes, because pollen you pick
5 up and carry it all home. Honey they burn on the way
6 home.

7 MR. RIDDLE: So four miles seems to be
8 reasonable and actually consistent. It was the most
9 common that we encountered in other standards that we
10 looked at, too.

11 CHAIRPERSON BRICKEY: I hate to be a kill
12 joy, but we've really got to move on here.

13 (Laughter.)

14 CHAIRPERSON BRICKEY: I hate to tell you,
15 but we're never going to get out of here tonight.

16 MR. RIDDLE: Well, it's the first time
17 that it's been discussed.

18 CHAIRPERSON BRICKEY: I know. I know.

19 MR. SIEMON: And it looks like a good
20 start here.

21 MR. RIDDLE: So the task force came up
22 with a table of materials that we found are being used

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1 by organic beekeepers now, and this is not an
2 endorsement of anyone or all of the materials. What
3 it is is a presentation of what we see as priority for
4 needing review, and so there's some explanatory text
5 there after each material and also just a preliminary
6 judgment of whether they're synthetic or natural, and
7 some language that could be used to construct an
8 annotation.

9 MS. BURTON: Jim, I have a comment. The
10 committee felt that vegetable shortening was a
11 synthetic based on manufacturing process.

12 MR. RIDDLE: Okay.

13 MS. BURTON: So if we could just change
14 that.

15 MR. RIDDLE: Okay. I think we had it as
16 both at one point.

17 MS. BURTON: Okay, all right.

18 MR. RIDDLE: That's N, vegetable
19 shortening, synthetic. I've always felt that way
20 about it, too.

21 MS. BURTON: Relevant question.

22 MR. RIDDLE: Okay. So anything on that

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1 list?

2 CHAIRPERSON BRICKEY: Any questions about
3 the list, comments?

4 Moving rapidly on to the next item.

5 MR. RIDDLE: Okay. The next item was the
6 task force recommended that the Processing Committee
7 meet and deal with the recommendations. We as a task
8 force weren't recommending these necessarily as
9 standards. We've identified them, and as Processing
10 Committee, I was part of that meeting yesterday, and
11 we agreed that most of the items there are already
12 covered off in the general handling standards. So it
13 would only be redundant to repeat them for honey,
14 apiculture products.

15 But there was interest, and this is both
16 in the task force and the processing committee to
17 somehow capture the issue of raw honey, organic raw
18 honey.

19 And you don't have these yet. I'm going
20 to get them copied, but I did some work on that after
21 the committee meeting, and then have run this past all
22 the committee members and have two definitions, one

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1 for organic honey and one for organic raw honey to be
2 inserted and then also an additional sentence to be
3 put at the end of J in the production standards. So
4 it would be J-9 that addresses -- would simply say the
5 producer must not, and then label honey as organic raw
6 honey if it has been heated, filtered using filter
7 elements smaller than 200 microns, or if diatomaceous
8 earth has been added to separate seed crystals from
9 the honey.

10 So this would be the only amendment to
11 this besides the three or four, I guess, that we've
12 talked about, the radius issue that Bob brought up
13 addressing contamination risk, as Owusu said, action
14 level, as Carolyn pointed out synthetic for vegetable
15 shortening in the Processing Committee.

16 So that's what you can anticipate when it
17 comes back on the floor.

18 MR. SIDEMAN: And for clarification, Jim,
19 are you expecting a vote for this to go to NOP as a
20 recommendation?

21 MR. RIDDLE: That was our intent, and that
22 was how it's tried to be packaged. That was actually

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1 our work order that we were told to do.

2 MR. SIDEMAN: And has this been on the Web
3 for --

4 MR. RIDDLE: Since September 15th.

5 MR. SIDEMAN: Okay.

6 CHAIRPERSON BRICKEY: Okay. Next item.

7 MR. RIDDLE: The next item we can pass
8 right over, I'm happy to say, which is the
9 aquaculture, aquatic species -- excuse me -- and
10 aquatic species are going to be discussed tomorrow
11 morning.

12 CHAIRPERSON BRICKEY: All right.

13 MR. RIDDLE: And I'd like to at this point
14 thank the great help of Mark Keating who really worked
15 with the Livestock Committee and helped guide us and
16 worked with us through all of these issues.

17 And with that compliment, I want to pass
18 on to him the task of discussing the last issue that's
19 in livestock, and that's pet food. I wonder if you
20 can give us some background of what the NOP has been
21 approached with on pet food and where you're hoping to
22 take the Livestock Committee.

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1 MR. KEATING: Sure, and this is kind of
2 self-serving after the nice compliment, but I think
3 the best way to move the whole management program
4 forward is the standard model, NOSP recommendations --
5 it can't be yelled loud enough -- NOSP recommendation,
6 proposed rule, public comment, final rule, and that's
7 the model that I think is going to be most productive,
8 having watched this process in Washington over the
9 last four years.

10 And I really want to compliment the
11 Livestock Committee for the work that they've done
12 this year. They've tackled any number of very
13 difficult, longstanding issues. We all know that
14 there was much less consent to some livestock
15 standards than there has been on crops simply because
16 of the long-term historical precedent for crops. It
17 did not exist for livestock products.

18 The Livestock Committee has worked very
19 hard this year to make great progress on pasture. In
20 this handout there's a statement on defining. It
21 didn't get mentioned as an action item because it's a
22 statement to tie in the material vote. That was good

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1 work.

2 We have the feed ingredient memo, a draft
3 recommendation that really sets the framework, ties us
4 in with the AFCO process; honey, apiculture standards,
5 well further evolved; aquatic animals, a lot of good
6 work. It's a model of how a committee can work.

7 I'm really going to miss Bill Welsh and
8 Marvin Hollen who have been there from the beginning.

9 Five years of very hard work, and Eric as chair over
10 the last year has really set the tone. So I love my
11 Crops Committee, you know, almost as dearly, but I've
12 been selfish in giving myself to the livestock more,
13 and we're going to be shifting emphasis onto the crop
14 side, but we really needed to work in livestock, and
15 that whole committee really delivered. I'm really
16 impressed.

17 The pet food issue is an interesting one.

18 It comes down to, I guess, an applicability question,
19 your coverage of the Organic Food Production Act. You
20 said in the preamble to the final rule that pet foods
21 are, in fact, agricultural products and would be
22 subject to labeling.

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1 But they're a different type of product
2 than what we have worked with. They're not the same
3 as human food products for which we have labeling
4 provision. They're not the same as livestock feed
5 products for which we have provision. They're
6 products for livestock, but that are really, you know,
7 not for edible livestock. They're more for the human
8 market defining them, you know, not producers, but
9 consumers, homeowners, you know, that type of
10 residential group.

11 Anyway, you can see I don't have a lot of
12 good answers to the pet food issue right off the top
13 of my head, but --

14 MR. RIDDLE: We forgot you were going to
15 talk about that.

16 MR. KEATING: Yeah, happy talking about
17 the livestock people.

18 But it has been an outgrowth of our work
19 with the American Association of Feed Control
20 Officials, which are, in fact, responsible for both
21 the livestock feed and the pet food labeling. AFCO
22 has indicated that they would like a solution that

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1 works for both livestock and pets. That's very
2 reasonable. There's no reason why we can't come up
3 with something that works for pets.

4 I think it's a potentially very good
5 market for organic producers because of the potential
6 to move organic byproducts. Again, if they produce
7 meat byproducts particularly into a line of organic
8 pet foods, and I just don't want to go any further
9 than that because it's still really preliminary at
10 this time, but I think that --

11 CHAIRPERSON BRICKEY: What do you think
12 the next steps are?

13 MR. KEATING: I really want to -- Nancy
14 Cook was here today from Pet Food Institute, and she
15 was speaking for a number of other people who have
16 signed on a letter to the Secretary. They're really
17 waiting for a response from us. They're really
18 waiting for kind of a preliminary dialogue. You know,
19 what are our thoughts?

20 And so I think probably the Livestock
21 Committee will need a place to respond to them, a
22 letter from the next chair of the Livestock Committee

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1 about what we see, how we see the rule working now.

2 MR. MATHEWS: Yeah. Part of the problem
3 is that we're getting a lot of pressure from the pet
4 food people to make a determination as to whether or
5 not it's covered, and my concern in looking at what
6 has been submitted to us is in regard to the
7 percentages that they want and the labeling system
8 that they want.

9 And what we really need to do is to get to
10 you those particular documents. Some of them are
11 talking as low as like three percent organic material,
12 and they can still make an organic reference. So I
13 think there's some real problems with what they're
14 proposing.

15 We've had some discussions here. We have
16 not gotten a definitive answer from the Office of
17 General Counsel. We're inclined to say that pet food
18 would be covered. It's just a question of whether or
19 not you want to have a different labeling system for
20 pet food than what you have for human food.

21 And I think that for at least some of us
22 the preference is not to have a dual system of

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1 labeling.

2 MR. SIDEMAN: I guess I have to bring up
3 the question as to whether we think this is really a
4 livestock issue or a crops issue. Maybe pet food
5 should just be looked upon as an agricultural product.

6 MR. MATHEWS: Well, you know, a Filipino
7 restaurant might make it a livestock issue.

8 (Laughter.)

9 MR. SIEMON: Are you saying that you're
10 waiting a legal interpretation that this really
11 belongs in this whole -- this room?

12 MR. MATHEWS: Well, I think that
13 preliminary discussions have been that if they want to
14 be covered, they should be abiding by our labeling
15 rules.

16 MR. SIEMON: That's obvious to me.

17 MR. BANDELE: I'm sorry. I didn't hear
18 you.

19 MR. SIDEMAN: That they'll abide by our
20 labeling rules, and I would agree with that.

21 PARTICIPANT: Yeah, but they're going to
22 tell you that their rules came first and that we don't

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1 have any. You know, they're very convinced of that.

2 MR. MATHEWS: But the bottom line is that
3 if we say that dog food is covered or cat food is
4 covered, and if you choose to play in the organic
5 game, you will have to be labeled to our rules.

6 But this is really something that this
7 body needs to address as to whether of not that's the
8 way --

9 MR. SIDEMAN: Carolyn, I hate to say it,
10 but I almost think we need to do it as a whole body
11 first and see which committee it actually falls under.

12 MR. MATHEWS: And I can get you some of
13 the information on pet food for your review.

14 MR. SIDEMAN: Do you want to send that to
15 the whole Board and then --

16 MR. MATHEWS: Well, I'll give it to you
17 for tomorrow.

18 MR. SIDEMAN: Okay.

19 CHAIRPERSON BRICKEY: Mr. Anderson?

20 MR. ANDERSON: Two comments. One under
21 labeling, I think that there's not even a precedent
22 set by FDA with nutrition labeling with regards to pet

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1 food. So I think you've got that precedent.

2 Secondly, your task force vehicle would
3 seem like a very obvious link.

4 I'm not following --

5 (Laughter.)

6 CHAIRPERSON BRICKEY: All right. Are we
7 completed here?

8 MR. SIDEMAN: Emily, did you have
9 something real important?

10 PARTICIPANT: Well, just that the OTA
11 started a task force, and we're trying to get
12 engagement with the pet food people, and so there's
13 sort of nothing going on there --

14 MR. SIDEMAN: Okay.

15 PARTICIPANT: -- industry wide and maybe
16 that's something the NOP members --

17 MR. SIDEMAN: Why don't we talk about that
18 later tonight?

19 That's it for us though. We'll talk about
20 where the Livestock Committee is going at the end of
21 the meeting on Wednesday.

22 CHAIRPERSON BRICKEY: Yes.

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1 MR. SIEMON: Where we're going physically
2 or --

3 MR. SIDEMAN: No, where we're going with
4 future work plans.

5 CHAIRPERSON BRICKEY: You know what he
6 means.

7 MR. SIEMON: I was going to say I didn't
8 think I was out of the room that long. What did we do
9 with the Alpo issues?

10 MR. SIDEMAN: They're going to be
11 discussed during the work sessions because we don't
12 have anything to vote on in there yet unless you
13 have --

14 MR. SIEMON: Why don't we? We have
15 recommendations. I'm very concerned about delaying
16 this. You know, the testimony we got today, I just
17 don't know why we shouldn't try to vote on this.

18 MR. SIDEMAN: This hasn't been posted on
19 the Web yet, has it?

20 MR. SIEMON: Well, are we going to vote to
21 post it on the Web as a group?

22 MR. SIDEMAN: Yes. That's probably what

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1 we're going to do Wednesday, is have these ready to be
2 posted on the Web.

3 MR. SIEMON: Okay, because just to go back
4 to the testimony and the long list of materials, this
5 is the broad brush. It's a rather radical move in
6 some ways, but this is the broad brush to take care of
7 some of these really unsolved issues.

8 MR. SIDEMAN: Did you want to discuss
9 these now before Wednesday? My plan was to discuss
10 them on Wednesday briefly and say they're going to be
11 posted on the Web for a vote at the next meeting.

12 MR. SIEMON: Well, they're in the
13 livestock section. They're right behind the part on
14 methionine, livestock feeding. There are some really
15 big issues here that we tried to resolve with what I
16 call the broad brush. So we need to clarify what's in
17 the rule now because we're actually responding to
18 what's in the rule, trying to bring clarification.

19 I really want to see us vote to at least
20 post this as a group.

21 CHAIRPERSON BRICKEY: And to what end?
22 What's our objective?

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1 MR. SIEMON: To get comment. Well, you're
2 sending the message out, for starters, so that people
3 at least know what's going. I mean we've still got
4 this 18 month thing or 12 months, whatever it is. So
5 I'm just trying to get it out because these are
6 issues --

7 CHAIRPERSON BRICKEY: So to publicize the
8 need for getting petitions for those materials?

9 MR. SIEMON: No, these are resolving
10 without petitions. This is clarifying what the rule
11 now allows in the bindings and minerals world,
12 defining the byproducts issue. This is just
13 clarifying things in the rule today.

14 CHAIRPERSON BRICKEY: Okay.

15 MR. SIEMON: But as far as I know even
16 that's going to take -- maybe that won't take the
17 same. That's the question I have then. Is this going
18 to take the year and 12 months or has this not got the
19 same kind of --

20 MR. SIDEMAN: No, I think our hope is that
21 this would end up in program manuals and actually
22 could be in effect in October.

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1 MR. SIEMON: So it doesn't have the same
2 time crunch.

3 MR. SIDEMAN: It wouldn't have the same
4 time crunch.

5 MR. SIEMON: Okay.

6 MR. SIDEMAN: These would be
7 recommendations to the NOP made at the next meeting.

8 MR. SIEMON: Okay.

9 CHAIRPERSON BRICKEY: Let's move to
10 materials. Kim.

11 MS. BURTON: For those of you who can't
12 see the overheads.

13 (Discussion was held off the record.)

14 MS. BURTON: All right. I'll must move it
15 up.

16 Basically this is our material to be
17 processed. It has not changed other than a few of the
18 dates for the last several meetings.

19 Basically a petition is received by the
20 NOP. They have 14 days to review the petition to make
21 sure that it is a complete petition, that all of the
22 priorities have been completed, all of the information

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1 has been submitted.

2 At that point, the petition is either
3 passed on to the Materials Review Chair or it's
4 rejected. The NOP has 45 days to get a letter back to
5 the petitioner, talking to them about the status of
6 the petition and any clarifications that need to be
7 made.

8 This middle section here prior to lunch
9 today was between the Materials Chair and our current
10 contractors. That was the process where we determined
11 if it was enough information, again, to go forward
12 with a TAP review.

13 The Materials Committee decided to take
14 this time since we now have three different
15 contractors to do some additional work, and what we
16 will do as a committee, we'll look at the TAP review.

17 We're going to be prioritizing materials. If we've
18 got a whole bunch of them, we're going to have to
19 determine which ones to send out and also where we're
20 going to send it.

21 We've got a lot of work to do in this
22 section. We just briefly discussed this for about an

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1 hour today. We are going to be doing some committee
2 work and having some policies and procedures set so
3 that the Board knows exactly what we're going to be
4 doing in this area.

5 Okay. Also, by day 30 after the petition
6 is received, the petition is posted on the Web site or
7 at least the notification that the petition has been
8 received so that the public knows what's been coming
9 in.

10 Also, prior to this committee meeting we
11 had today, this whole process was about a 90-day
12 process. We, the committee, feel that we don't have
13 enough time to review TAP reviews prior to meetings.
14 So we've extended it to 145 days, and this is where
15 you're going to see some additional time right here.

16 We're asking for a little bit more time to
17 review the materials, the TAP reviews, before the
18 meeting and also a little bit more time for the TAP
19 reviewers to conduct the tap reviews.

20 Okay. We're required by -- is it ACPO or
21 the NOP? -- is required 30 days prior to the meeting
22 to post what materials will be reviewed on the agenda.

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1 We also post the actual TAP reviews 30
2 days prior to meetings so that they have public view,
3 and then this 30-day time period is where the NOSB
4 Board can go back and look and ask if there's any
5 additional information needed from the reviewer, from
6 the TAP reviewers, from the petitioners, gather any
7 industry information that we need, and that sort of
8 thing.

9 Comments or questions on this? An
10 evolving process obviously.

11 (No response.)

12 MS. BURTON: Okay.

13 MR. SIEMON: Well, I have a question about
14 the whole petition process.

15 MS. BURTON: Sure.

16 MR. SIEMON: Before you get to the whole
17 chart.

18 MS. BURTON: Sure.

19 MR. SIEMON: Earlier it was asked is there
20 any way to change the complexity of putting forward a
21 petition.

22 MS. BURTON: Well, I just spoke with Bob

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1 Fuller a few minutes ago, and we're going to chat
2 before the week is over.

3 MR. SIEMON: Because I heard Rick say,
4 "What's our recommendation?"

5 So, you know, we tried this for quite a
6 while, and it's really a complex task.

7 MS. BURTON: Well, we've heard
8 conflicting. We've heard, yeah, we want to streamline
9 and use that petition process. Then we also heard
10 don't change it in midstream. so the committee is
11 going to discuss that further.

12 MR. RIDDLE: Yeah, if you could factor in
13 these like new sectors coming in, like that apiculture
14 list, for instance.

15 MS. BURTON: All right. Also --

16 MR. LOCKERETZ: Excuse me, Kim.

17 MS. BURTON: Yes.

18 MR. LOCKERETZ: If the NOSB recommends an
19 item, goes through the whole process and recommend an
20 item to the list, what happens after that?

21 MS. BURTON: I'm sorry. What?

22 MR. LOCKERETZ: If the NOSB recommends an

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1 item for inclusion on the national list --

2 MS. BURTON: Okay.

3 MR. LOCKERETZ: -- what else happens after
4 that?

5 MS. BURTON: At that point we just make
6 the recommendation, and it goes to NOP, and that time
7 line is --

8 MR. LOCKERETZ: Is that a recommendation?

9 MS. BURTON: Yes, it's a recommendation.

10 MR. LOCKERETZ: I thought for materials
11 the buck stopped here.

12 MS. BURTON: No. It's just a
13 recommendation. It doesn't guarantee it's getting put
14 on the list.

15 MR. RIDDLE: We just define the breadth of
16 what can be considered.

17 MR. MATHEWS: What happens, Willie, is
18 that you will have to have a rulemaking process.

19 MR. LOCKERETZ: That's what I'm asking.

20 MR. MATHEWS: You recommend the addition,
21 but then it has to go through the rulemaking process.

22 MR. LOCKERETZ: That's what I was asking.

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1 MR. MATHEWS: And it may or may not end up
2 on the list based on public comment.

3 MS. BURTON: We have a number of materials
4 we've recommended over the last year that are not on
5 the national list. They are still in the process
6 of --

7 MR. LOCKERETZ: Has anything made the
8 national list post rule?

9 MS. BURTON: No.

10 MR. MATHEWS: No.

11 MR. LOCKERETZ: Well, how soon might
12 anything make it to the national list? Because we've
13 been recommending materials all along.

14 MR. MATHEWS: And we haven't dropped off.
15 We'll update it to include anything you have on the
16 list.

17 MR. LOCKERETZ: Everything up till now is
18 awaiting that to happen.

19 MR. MATHEWS: Well, the conclusion of this
20 meeting, and then we'll go all in one docket to be
21 published.

22 MR. LOCKERETZ: Okay.

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1 MS. BURTON: At the conclusion of this
2 meeting? Okay.

3 MR. MATHEWS: Well, I assume after, as we
4 can get it cleared through the channels.

5 MS. KOENIG: Okay. So it takes like how
6 long from when we approve it until when somebody could
7 actually use it?

8 MR. MATHEWS: It all depends on -- well,
9 it depends on how fast it can get through the
10 clearance process. The worst case scenario is 18
11 months.

12 MR. LOCKERETZ: From? From when NOSB
13 recommends it?

14 MR. MATHEWS: Yes.

15 MR. LOCKERETZ: Another 18 months?

16 MR. MATHEWS: That's worst case scenario.

17 MS. BURTON: I don't think there's any set
18 time period.

19 MR. MATHEWS: Again, you know, OMB might
20 decide they don't need it for 90 days. I don't know.

21 PARTICIPANT: We're saying 145-days plus,
22 worst case scenario.

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1 MR. LOCKERETZ: Worst case.

2 MS. BURTON: Okay. We have 13 materials
3 that we're going to get through tomorrow. We're going
4 to get through all of them like Carolyn said
5 hopefully. The committees have gone through all of
6 these materials, and they will be making
7 recommendations. Most of you should be familiar with
8 these.

9 As far as new petitions, in the process
10 and, again, they are at the beginning stages of the
11 process, we have five materials that have been
12 forwarded for TAP reviews. OMRI is currently working
13 on these five.

14 Most of them are new, with the exception
15 of the sodium Chilean nitrate, which is a recommended
16 annotation change.

17 There's one petition that is on hold by
18 the request of the petitioner. It's an anti-foam
19 agent. They've basically been waiting upon the
20 decision of the anti-foam that we're going to be
21 reviewing today or tomorrow.

22 There's six new petitions, and I know

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1 nothing about these. I haven't even seen the
2 petitions. they're still in the NOP office, but as of
3 last Friday, these did come in, and they will be
4 starting the petition process.

5 There's five recommendations for additions
6 to the national list, and we have our first
7 recommendation for removal of a material from the
8 national list.

9 PARTICIPANT: Could you just read those?
10 We can't read them.

11 MS. BURTON: Okay. The new TAPs that have
12 been forwarded for TAP reviews: calcium oxide, which
13 is a crop material; calcium hydroxide, which is a crop
14 material; sodium Chilean nitrate, which is a crop
15 material; 1-4-dimethyl naphthalene -- I'm getting good
16 at this, aren't I? I can say those words.

17 (Laughter.)

18 MS. BURTON: -- a crop material; gelatin,
19 processing material.

20 Petition on hold, dimethyl polysiloxane.
21 That's a processing anti-foam.

22 New petition, dewaxed flake shellac,

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1 processing material; calcium stearate, processing
2 material. I have no idea what this next one is.
3 Spinosad.

4 PARTICIPANT: It's a brand.

5 MS. BURTON: It's a brand name, yeah. I
6 don't know. I've not seen the petitions on any of
7 these.

8 Potassium carbonate, processing material;
9 calcium sulfate, processing material; Konjac flour,
10 processing material; and removal of cornstarch from
11 the national list.

12 PARTICIPANT: Question. This morning they
13 added sodium chloride to the list. Is that going to
14 be added?

15 MS. BURTON: I did see that you had it in
16 your packet. You also had a petition in there. Yes,
17 and I pulled it out aside so Bob and I will make sure
18 that that gets -- and that is your actual petition,
19 correct?

20 PARTICIPANT: That's sort of what I'm
21 asking.

22 MS. BURTON: It looks -- well --

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1 PARTICIPANT: It looked like a review.

2 MS. BURTON: It looks like a duplicate of
3 the review, but I take that as a petition. So I'll
4 forward it to Bob.

5 PARTICIPANT: Thank you.

6 MR. RIDDLE: Do you have a handout of
7 this? This isn't in our packet, is it?

8 MS. BURTON: Yes, it is.

9 MR. RIDDLE: It is?

10 MS. BURTON: Oh, these lists?

11 MR. RIDDLE: Yeah.

12 MS. BURTON: I do have copies, yeah.

13 MR. RIDDLE: Oh, good.

14 MS. BURTON: Okay? That's it for
15 materials.

16 Again, we will be working on the process
17 for TAP reviews, and I should have something to
18 present.

19 Emily?

20 PARTICIPANT: (Question from unmiked
21 location.)

22 MS. BURTON: Yes, yes, and we don't know

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1 how we're going to do that yet. It's fairly new to
2 us. So we're going to come up with some policies.
3 The whole committee will make the recommendations. It
4 won't just be the chair. It will be the entire
5 committee doing that.

6 PARTICIPANT: How do those the materials
7 change status?

8 MS. BURTON: How does it change status?

9 PARTICIPANT: How does it achieve that
10 status?

11 MS. BURTON: That was the recommendation
12 by the petitioner because there's an anti-film being
13 reviewed tomorrow that they can use also. So if that
14 one gets forwarded or declined, that will change the
15 status of this petition.

16 PARTICIPANT: As well as the annotation
17 changes?

18 MS. BURTON: Do I know what those are?

19 PARTICIPANT: Yes.

20 MS. BURTON: Not off the top of my head.

21 MR. SIDEMAN: It's a petition for a new
22 use.

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1 MS. BURTON: Yes.

2 CHAIRPERSON BRICKEY: Okay. We need to
3 move on.

4 MS. BURTON: All right.

5 CHAIRPERSON BRICKEY: Thank you.

6 MS. BURTON: You're welcome.

7 CHAIRPERSON BRICKEY: I note that Jim
8 Jones is here and would invite him to come forward.

9 Will you want to use the overhead, Jim?

10 MR. JONES: Actually, no.

11 CHAIRPERSON BRICKEY: It's a little bit of
12 a dilemma in this group.

13 MR. JONES: Interesting.

14 CHAIRPERSON BRICKEY: Who do you want to
15 put your back to, Jim? Use your best judgment on
16 that. Actually for the sound, can you give us some
17 advice?

18 We have a court reporter. So we need to
19 get sound to him.

20 While we're doing this, I'll just
21 introduce Jim. He's the Deputy Director of the
22 Pesticide Office at EPA and has been working with us

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1 for what, Jim, a couple of year now?

2 MR. JONES: Yeah.

3 CHAIRPERSON BRICKEY: On the question of
4 inerts and developing a label for organic products.

5 MR. JONES: All right. Sorry if my back
6 is to any of you.

7 As Carolyn mentioned, over the past few
8 years, we in EPA and the pesticide program have been
9 working with the Board on a couple of different
10 projects. One of them has to do with a pesticide
11 labeling project, and I'm going to give you a status
12 report on that, and the other one has to do with an
13 interesting inert issue that you all brought to our
14 attention, and I'll be giving you an update on that as
15 well.

16 They're pretty independent issues, and
17 they have actually not too much to do with each other.

18 So I think I'll talk about the labeling one first,
19 and then we can talk a little bit about that, and then
20 we'll move on and talk about the inert ones so that I
21 don't end up confusing you any more than I otherwise
22 would.

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1 The labeling issue which we've talked
2 about for some time now and back in, I think, the
3 March meeting we may have been able to give you a
4 draft of a PR notice, which is sort of a policy notice
5 that we do in OPP when we want to propose something as
6 it relates to pesticides, regulation of pesticide
7 labeling.

8 And what we were proposing to do at that
9 time was to allow the manufacture of a pesticide that
10 is used in organic production to be able to put a
11 statement on their label that indicated that all of
12 the ingredients in the product were allowable under
13 the national organic program.

14 And that notice which was released in the
15 March time frame basically proposed the following
16 language. The ingredients in this product meet the
17 requirements of the USDA national organic program if
18 certain criteria are met.

19 And the criteria that we outlined were
20 basically what the criteria for the national organic
21 program are: that it's on the national list and that
22 it only contains inert ingredients that are on EPA's

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1 List IV.

2 And then we in this notice also described
3 how the manufacturer could basically amend their
4 registration to have the statement put on and talked
5 about what we could do to make sure that they were not
6 pulling the wool over our eyes, that we would have
7 some review process to make sure that it only included
8 active ingredients that were on the national list and
9 EPA List IV in the ingredients.

10 So the proposal was put on the streets
11 several months ago. We took comment on it. We got
12 not a lot of comment, which can be actually pretty
13 good in our business. A total of about 16 comments
14 were received.

15 There were some commenters who just
16 opposed this and didn't think we should be doing this.

17 EPA shouldn't be getting in this business, and it was
18 people who cared about organic production who were
19 opposing it, saying, "You ought to leave this to the
20 Board."

21 And then the majority of the comments were
22 supportive. I don't think that there was any real

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1 significant policy kind of other than people saying,
2 "I just don't think you should be doing this," and
3 those saying you should.

4 That will ultimately change the basic
5 direction that we're heading in. The issue that we
6 are struggling with right now that we need to talk
7 about -- and it's something that we would like to have
8 some process worked out before we go final with
9 this -- is sort of an issue resolution process when we
10 have before us an amendment, and the active ingredient
11 is just too ambiguous for us or it's more ambiguous
12 than we would like it to be, where we have some clear
13 process for making sure that we're touching base with
14 the appropriate people.

15 And you guys, I think, have to help us
16 figure out who the appropriate people are, whether
17 it's the Board or the AMS, to make sure that we don't
18 go forward and approve something that you didn't think
19 was on the national list or I think actually the
20 Congress is more likely to have that we disapprove it
21 because we had a different understanding or
22 interpretation.

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1 So once we get that worked out, some
2 process to make sure that we've got a regular point of
3 contact to work out these ambiguous ingredients, I
4 think we'll be ready to go forward.

5 So maybe at this point it would be good to
6 stop and talk a little bit about, well, age, sort of
7 generally where we are and what we're doing, and what
8 I really need to do is engage you on the second issue
9 of how can we work out a clarification process. Who
10 is the right group?

11 And maybe you guys can think about that in
12 your deliberations, but that's something that we
13 really need to get nailed down before we're ready to
14 go final, but once we do, I think we'll be pretty
15 quickly ready to finalize this policy process.

16 CHAIRPERSON BRICKEY: So what kind of a
17 time line are we talking about?

18 MR. JONES: Well, it's really up to you.
19 I mean, the hotter you are to trot on this, the sooner
20 we'll get a process out. In my mind, all we need is a
21 process. You tell me who or you all tell me who and
22 how we connect with when we get an amendment and

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1 they're proposing to use this statement. And the
2 active ingredient, when we look at the national list,
3 we're going, "Huh, this could be that, but I'm not
4 sure." That we can consult with, and all we need is
5 the process to be defined before we're ready to
6 finalize the -- I mean, as a matter of fact, this
7 person or group won't even interact until we finalize
8 because they won't have anything to do until we get
9 something in that leaves us scratching our heads.
10 Maybe we'll be lucky and we won't have any of those.

11 MR. SIDEMAN: On the Board or in the NOP
12 office?

13 MR. JONES: That was probably the big
14 question.

15 MR. SIDEMAN: If it's the Board, it's
16 probably the Materials Committee.

17 MR. JONES: My instinct is that these will
18 not be hard for you all to work out.

19 MS. BURTON: I think it's in the Materials
20 Committee.

21 MR. RIDDLE: Unless Richard says it should
22 be in his office.

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1 MS. KOENIG: Can you give us an example?
2 I think that's what's hard for us to grasp.

3 MR. JONES: Yeah, I mean, we were --

4 MS. KOENIG: I'm kind of scared to say yes
5 to something --

6 MR. JONES: Right, right, right. And I'm
7 not the best person to do this. The folks in our
8 Biological Pollution Prevention Division who have
9 identified this as an issue would be.

10 But, say, for example, we've got an active
11 ingredient that it -- as I understand it, the list
12 doesn't have everything identified. It says just if
13 it's natural, and we're looking at it in terms of,
14 well, is it or isn't it?

15 No, I don't think it is. Yes, I think it
16 is. Well, let's call somebody at the NOSB to say,
17 "Would you consider this to be?" Right.

18 MR. RIDDLE: Well, would this be
19 structured in some sort of an MOU between EPA? I
20 mean, it would seem to me that it should be EPA to NOP
21 and then NOP materials, you know, staff person on out
22 to the Materials Committee for clarification or just

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1 feedback, but it should funnel through NOP, or it
2 would seem to me.

3 MR. JONES: That part of it I'm not --

4 MR. RIDDLE: We're an advisory board to
5 them, not an advisory board to you, correct?

6 MR. JONES: Right.

7 MR. MATHEWS: And that's what you're
8 talking about. You come to us. We then go to the
9 Board.

10 MR. JONES: Yeah. All I need to know is
11 who should we come to when we run across this, and
12 hopefully we'll come up with something that's pretty
13 straightforward. Pick up the phone, fax them a piece
14 of paper, deliver it quickly, make a decision, and
15 there may be some that have to be tabled for other
16 discussion.

17 MS. BURTON: I would see it going similar
18 to the petitions that goes through NOP and then the
19 Materials Chair and the committee. If it's a
20 difficult decision the committee could work on it.

21 MR. RIDDLE: Yeah. That makes sense to
22 me.

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1 MR. JONES: Richard is who I would then
2 work with to sort of sort through who my staff contact
3 is and who his staff contact is, and then you would
4 need to sort through how you're going to then get this
5 to the people in Materials.

6 MR. MATHEWS: Right. I would think that
7 we'd have to compare it to the national list, as well
8 as the Board has in the past made some determinations
9 on what is natural and what is not. So we would have
10 to update the list that originally occurred in the
11 proposed rule under the preamble, and then look at
12 those options to see if they exist there.

13 MS. KOENIG: Are they talking about like,
14 say, for example, on a biological, that you would get
15 a brand biological because you're looking at brands,
16 correct?

17 MR. JONES: Right. We have the ingredient
18 information now.

19 MS. KOENIG: So like say, for example, in
20 weed control there's some biologicals that may not be
21 specific to one crop species. According to the rule,
22 I guess nonsynthetic biologicals would be allowed.

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1 However, there might be, I guess, a reason on -- I'm
2 not sure.

3 The way it exists now, it's been looked at
4 in the brand name pocket. It's not necessarily in the
5 rules, but I guess that's the question.

6 CHAIRPERSON BRICKEY: The question for him
7 would be look at the product.

8 MR. JONES: The ingredients.

9 CHAIRPERSON BRICKEY: The ingredients that
10 are being petitioned in that product and whether or
11 not they comply with our rule or not.

12 MR. JONES: Right.

13 PARTICIPANT: It's not the uses.

14 MR. JONES: It likely won't be, and again,
15 I don't think that --

16 MS. KOENIG: But they're going to be told
17 their -- just because it may be approved, it may not
18 necessarily fit within an organic system just because
19 it's biological.

20 MR. MATHEWS: But if it's already approved
21 on a national list.

22 MS. KOENIG: But there may be natural

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1 products, such as arsenic, but they also may be
2 biologicals.

3 MR. MATHEWS: That's already prohibited.
4 So then it would be a prohibited substance. Naturals
5 are allowed unless prohibited.

6 MS. KOENIG: So that's where it would have
7 to be looked at though because there may be something
8 that may be natural that we may want to recommend that
9 it would be prohibited.

10 MR. JONES: That has to be petitioned.

11 MR. MATHEWS: You have to petition to
12 prohibit that.

13 CHAIRPERSON BRICKEY: Diane.

14 MS. GOODMAN: I know it's sort of a
15 suggestion, but it seems like it would be a lot
16 simpler for you if you'd do this in groups of
17 materials when you get them. You circulate a list
18 back through the steps, through the Materials
19 Committee, and anything that's identified would then
20 come back to you and you will discuss them. That way
21 if you do it in a group rather than individually or
22 you wait until you have one question like --

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1 MR. JONES: But my experience is that our
2 hesitation is an appropriate one, but it may be as
3 much red herring as anything, and that you want to
4 actually do it before you over design some process.

5 My gut is that this anxiety that a good
6 bureaucrat would have when it plays out only applies
7 one percent of the time, and so we could go nine
8 months before we find one, and then nine months before
9 we have another one.

10 Now, if we go like nine months and we have
11 70, then I would design something like that, but if we
12 go nine months and we have one, a phone call with a
13 fax ought to be the solution.

14 So I hate to over design something. Now,
15 I'm glad I got people who are really worried about
16 stuff like this, but my instinct is that it's not
17 going to be that difficult.

18 MR. MATHEWS: Probably what we should do
19 is sit down and sketch out an MOU between us, and we
20 can share that with the Board before it's finalized.

21 MR. JONES: That would work for us.

22 MR. RIDDLE: Well, yeah. My question was

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1 if it would be helpful for us to make a recommendation
2 or if you want to go ahead with the MOU first and then
3 us just react, that's fine.

4 CHAIRPERSON BRICKEY: I would say the MOU
5 first.

6 MR. RIDDLE: Sounds good.

7 CHAIRPERSON BRICKEY: Because like Jim
8 says, this is not going to be that difficult probably.
9 So let's not over react.

10 Any other questions about the labeling?

11 So you're going to be prepared to start
12 accepting petitions and evaluating?

13 MR. JONES: As soon as we get this to a
14 place where we're feeling good about it, we're going
15 to go find what's in it.

16 CHAIRPERSON BRICKEY: Okay.

17 MR. JONES: We'll be getting amendments,
18 and we'll come back and report as to how that's going,
19 and I expect many of the people in this room will be
20 good watchdogs for it both in terms of is it taking
21 too long or making good decisions or not.

22 MR. MATHEWS: Hey, Arthur, make sure Jim

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1 gets your phone number so that the two of you can
2 start working on that.

3 MR. JONES: Okay. So the second issue --

4 CHAIRPERSON BRICKEY: One second. Emily,
5 quickly.

6 PARTICIPANT: Yes. I just wanted to ask
7 if you are planning to amend your PRT to the
8 notification procedures to NOSB and so that they will
9 know, you know, what kind of decisions you make and
10 also have a plan for evaluating the animal content of
11 natural materials or DMO qualifications.

12 MR. JONES: Right, right. On the first
13 question, I was thinking that we would use this
14 meeting as a routine reporting process, but that's
15 actually a good question, is should we have some --
16 what kind of feedback do you as Board have for how
17 often you want us to be reporting one. We've got this
18 many and here's what they were, and that may be
19 another one for Richard and I to sort through, kind of
20 a routine reporting process, and how much do you want
21 to know about what we're getting and what we're doing.

22 CHAIRPERSON BRICKEY: Okay.

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1 MR. JONES: On the GMO situation, I mean,
2 that again could be the same exact issue that I was
3 referring to, coming to the Board to say or to the NOP
4 and saying, "Well, here's what we know. Here is your
5 program. Is this organic? Would this be considered
6 to be on the national list or not?"

7 PARTICIPANT: There's just one more
8 question. It's like if they're making that decision
9 on natural and synthetic, will you be releasing
10 tracking information to them so they can make that
11 determination?

12 MR. JONES: Well, if we cannot get advice
13 without doing that, what we'd have to do is ask the
14 manufacturer, "Are you comfortable with us doing
15 that?"

16 Now, I think we can do that with USDA
17 without much of a problem at all. If we were going to
18 go to the Board, we might need to have a written
19 permission, but again, the petitioner is looking for
20 an advantage. They should be willing to allow us to
21 talk to other people about their petition.

22 MR. RIDDLE: Just one more thing, Jim.

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1 Will you have a Web site where the approved materials
2 would be listed?

3 MR. JONES: That's a good question. I
4 don't think we have planned on doing that, but we
5 ought to talk about that internally

6 MR. MATHEWS: We could put it on our Web
7 site.

8 MR. JONES: Right. We could tell the
9 products. I like that better.

10 MR. BANDELE: I had a question in terms of
11 the -- did you ever run into problems where someone
12 calls material inert when, in fact, it is not or would
13 the inerts pose any type of problem? I think you may
14 have covered that, too.

15 MR. JONES: It has to be a list of for
16 inert, and we do have situations where we think it's
17 really active, and we think it's inert, and we worked
18 that through in their petitioning of us. But if it's
19 under the NOP, it needs to be a list for inert.

20 MR. BANDELE: So they would have to list
21 specifically what inerts they had.

22 MR. JONES: They'd have to list the entire

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1 composition of their product, including percentages of
2 all ingredients, active and inert.

3 Okay. So then the second issue that we've
4 been working on, and it came actually just sort of
5 routine interactions on the first issue, was that you
6 all recognized that there were a significant number of
7 inert ingredients that are in products that are
8 currently being used in organic production where the
9 active ingredient meets the rule, the NOP rule, but an
10 inert or two didn't, and the inerts to be allowable in
11 their production as I understand is to be an EPA list
12 for inerts.

13 And you guys brought to our attention
14 about 40 or so inert ingredients, a little more than
15 that, actually through the Washington State Department
16 of Agriculture, inert ingredients that are currently
17 List 3, inert ingredients, and therefore, they would
18 not be allowable in organic products after October of
19 '02, I guess, about a year from now.

20 And so what we have been trying to do with
21 all of you is looking to see if those inert
22 ingredients are on List 3 really could be on List 4,

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1 but it was just a matter of we hadn't gotten around to
2 evaluating them.

3 And we have been working largely with
4 OMRI, which has got a lot of the technical expertise
5 here and the knowledge of what the products are and
6 how many inerts are in how many products and which are
7 the more important products and things along those
8 lines or which of the products have more of these
9 inerts in them, to see if we can between now and next
10 October make a reclassification decision and either
11 move them to List 4 or possibly move them to List 1.

12 And just to remind everyone, we have
13 classified all of the inert ingredients. These are
14 ingredients that had been sort of grandfathered in
15 before 1988 or so. List 1 are of known toxicological
16 concern, and we don't allow them in products unless
17 the product has a statement on it saying this contains
18 a probable human carcinogen or a known developmental
19 toxin or something along those lines, and labeling
20 that.

21 Manufacturers go to great lengths to avoid
22 that. So they generally get rid of that inert

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1 ingredient.

2 Those two are inert ingredients that we
3 suspect they have an issue because their structure is
4 related to a compound that's known to be an issue.

5 Then the biggest group of inerts lists
6 three inerts which we don't know about their
7 toxicological -- they're of unknown toxicological
8 concern, and they list four of those that we have
9 affirmatively said are safe.

10 So it's kind of appropriate that you guys
11 pick four that as the ones that can be used in organic
12 production.

13 So we've been triaging these 40-odd inert
14 ingredients, and we've come up with, as we do in
15 government, first put them in -- there were actually
16 four that were really on the spore. They was just a
17 communication issue. So we've clarified that they're
18 really on the spore.

19 There are 13 of them that are polymers,
20 and so they're relatively straightforward for us or
21 the manufacturer to determine whether or not they
22 could be classified as a spore.

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1 We have for a long time relied on a rule
2 that's used by our TOSCA Program for the physical
3 properties of polymers, that if these physical
4 properties are exhibited by the compound, we'll exempt
5 them from regulation, and they basically have to do
6 with they're such a great size that the body can't
7 really -- it can't be absorbed into the system unless
8 exhibiting toxicological problems.

9 So the second group would be we think we
10 should be able to either honor working with some of
11 the manufacturers, quickly sort through whether or not
12 they can be moved to -- some of them won't. Some of
13 them will evaluate them and will realize that they
14 don't meet the polymer exemption rule, and more work
15 will need to be done.

16 And we have a group of about 17 compounds
17 that we in this third group will see that we think
18 based upon their physical chemical properties and
19 structural activity they're of low concern, and we
20 should be able to sort through some of those between
21 next October and now.

22 The last two groups are those that we

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1 think will need a fair amount of data based on the
2 structures of the compound for us to be able to make a
3 safety finding, and there are a total of about 12
4 chemicals in those last two groups.

5 It's the first three groups that we have a
6 -- well, the first two groups, high optimism that we
7 can sort through them between now and next October.
8 The third group, a number of those have a decent shot.

9 What we're trying to do is maximize our
10 work in tolerance through assessment, another
11 statutory requirement that we have where we're
12 evaluating old chemicals, including inert ingredients,
13 and operating in a statutory deadline that kind of
14 dovetails with this statutory deadline three months
15 earlier to see if we can get two birds with one stone
16 and evaluate under those processes.

17 Some of these Group Cs will fall into that
18 as well. Some we're not going to be able to
19 completely come to closure with, and I think that --
20 by next October -- and I think the thing that we
21 should be having some discussions about now, I
22 actually have for the Board basically our triage work,

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1 how we classify these.

2 We are identifying them here. We are
3 telling you which lists they're in, EPA List 1, 2, 3,
4 4, and then our preliminary classification according
5 to this classification which I just mentioned.

6 And I think that, you know, it's a year
7 from the time at which it becomes a problem to have it
8 from your perspective. From our perspective it's not
9 a problem.

10 But if you can't be in an organic product,
11 if you're not on List 4 by next October, I think it
12 may be time to think about what kind of signal sending
13 you want to do or don't want to do because especially
14 the Groups D and E, it's very unlikely we're going to
15 be able to make a reclassification in List 4 between
16 now and next October.

17 And in the Group C, some will and some
18 won't. A and B are looking pretty -- we're reasonably
19 optimistic about.

20 Now, you know, the value in doing
21 something in this time frame is that you can, if
22 you're a manufacturer, you can make a business

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1 decision to reformulate so that your products can be
2 used in organic production in the event that we're
3 unable to reclassify you to List 4 by next October or
4 you can choose to cross your fingers and hope we're
5 able to get to it.

6 So I think that was kind of the update and
7 from our perspective of what we saw was one of the key
8 policy choices that you have on this activity.

9 And, again, A, B, and C look pretty good
10 for next October. D and E don't, and within C, you
11 know, clearly we will not get to all 17 of the Cs.
12 We're likely to get to a significant, and again, you
13 may get to them and you find that they don't meet the
14 standard.

15 MR. RIDDLE: Jim, I just want to be clear.
16 When you say the A and B, your top priority, you're
17 most likely to move to List 4 or just most likely to
18 get a decision?

19 MR. JONES: A is actually almost --

20 MR. RIDDLE: Okay.

21 MR. JONES: B, we're likely to get to a
22 decision.

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1 MR. RIDDLE: A decision, not necessarily
2 move to four.

3 MR. JONES: On all of them it's about a
4 decision.

5 MR. RIDDLE: Okay. That's important.

6 MR. JONES: Until you review them, you
7 can't prejudge what the decision is going to be.

8 MR. RIDDLE: Okay.

9 MR. MATHEWS: Under EPA list, where you
10 have NL, can you tell us what the NL stands for,
11 please?

12 MR. JONES: Not listed, which would mean
13 that -- that's interesting.

14 PARTICIPANT: What was the comment?

15 MR. JONES: NL. If it's not listed, it
16 really shouldn't be in a pesticide product, should it?

17 PARTICIPANT: Well, it could have been --
18 it may be by the way we searched it. Again, you'll
19 have to make a determination, whether or not those
20 were truly existing, an inert ingredient.

21 MR. JONES: Right.

22 CHAIRPERSON BRICKEY: You mean they'd be

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1 like paper registrations?

2 MR. JONES: No, we might be calling it
3 something else. So we need to do a little -- I mean
4 this is kind of one of those -- this is the inert
5 version of there's ambiguity, you know, that amorphous
6 fume silica, its gas number. We could be calling it
7 something different, and it's on List 3 or List 4.

8 CHAIRPERSON BRICKEY: Okay.

9 MR. JONES: So we need to do a little
10 homework on the NLS.

11 CHAIRPERSON BRICKEY: I see.

12 MR. JONES: Because if they're truly not
13 listed, they shouldn't be in any product.

14 CHAIRPERSON BRICKEY: Right. Emily.

15 PARTICIPANT: Jim, does this mean that
16 your information is not public information?

17 MR. JONES: Yeah.

18 PARTICIPANT: So if we can notify our
19 manufacturers, most of the Cs and Ds, then they're
20 very unlikely that it's going to be a true or, you
21 know, that we can --

22 MR. JONES: By next October.

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1 PARTICIPANT: If we can notify them of the
2 status.

3 MR. JONES: Right. So you guys will do
4 that?

5 PARTICIPANT: Yeah.

6 MR. JONES: Okay. And I guess sort of the
7 flip side of it is that if there are -- and part of
8 this dialogue that we've been having with OMRI is that
9 if there are particular inerts that are in, say, Group
10 C that are most important because they're in so many
11 products, that can sort of help us to focus our
12 efforts.

13 CHAIRPERSON BRICKEY: So that's something
14 we need to be back to you on like in a month or so
15 with any designations we want to indicate.

16 MR. JONES: If we had a couple of
17 priorities in C that would be useful.

18 MR. SIDEMAN: Jim, are you going to make
19 any effort to make contact with pesticide
20 manufacturers who may be, quote, mislabeling their
21 product using terms like "natural" or "all natural" or
22 "organic"?

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1 MR. JONES: Yeah, it's always an
2 interesting issue.

3 MR. SIDEMAN: You would be the only one to
4 know that they may have a list of the inert in them.

5 MR. JONES: Correct.

6 MR. SIDEMAN: And maybe thereafter it is
7 organically approved.

8 MR. JONES: Ultimately that is an
9 enforcement issue, and when we're getting together
10 with our enforcement colleagues -- now, this is not --
11 and they are asking us, "List your priorities." That
12 issue always falls very low on the priority list.

13 And I can buy into that, that taking your
14 limited enforcement resources and focusing on that
15 problem in the pesticide community does seem to be a
16 low priority when you're thinking about other things
17 that might be really causing some problems.

18 So it always falls very well in our
19 enforcement. So although we conceptually, I think,
20 share the same feeling on it, when it comes down to
21 actually doing something, and you know, you can say in
22 the notices that we would figure that, but to really

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1 get it out of there, you've got to bust them, and
2 that's --

3 MR. SIDEMAN: My concern is because you're
4 starting this labeling program, so you're going to
5 have things that say "Meet NOP Program," but there may
6 be things already on the market that have organics
7 diagonally across the label or something.

8 MR. JONES: Right.

9 MR. SIDEMAN: Not trying to put themselves
10 in the NOP meeting category, but still using the word,
11 and there is no regulation on that.

12 MR. JONES: Well, I believe that that
13 would be a misbranded crop actually.

14 MR. SIDEMAN: Under your new N rule?

15 MR. JONES: Even under our existing one it
16 would be, yeah. The question is, you know, can you
17 spend enforcement resources to take enforcement
18 action, and we have. We have taken cases along this
19 line, but there's never been sort of a concerted
20 enforcement effort to, you know, come up with a
21 strategy that tries to round them all up and take them
22 all in and, you know, take cases against the law.

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1 Periodically here and there a case will be
2 taken by our regional office. Then the 25(b) rule
3 also creates a little bit of a problem in that arena
4 as well. They're not regulated.

5 You know, we basically said these active
6 ingredients, if they're with a List 4 ingredient, do
7 not need to be registered, but they can't be
8 misbranded. And so they create generally the same
9 kind of problem because then companies who have these
10 products, there have been companies who will then make
11 claims on their statements that they're not liable,
12 and then we're being asked again to use enforcement
13 resources to go after this group as well.

14 So the enforcement part of it is a
15 challenge.

16 CHAIRPERSON BRICKEY: You might want to
17 think about recommending an initiative after your rule
18 goes final that targets maybe three or four of these
19 products, as opposed to the whole litany of products
20 that are out there.

21 MR. JONES: Yes, it's something we can
22 think about.

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1 CHAIRPERSON BRICKEY: Okay.

2 MR. LOCKERETZ: As a clarification, the
3 footnote says that A means already on List 4, but all
4 of the As are actually shown as on the EPA List 3.

5 MR. JONES: I think that that's how our --
6 one of our problems was how it came into us, but we
7 should change that because it's our piece of paper
8 with the EPA list on it.

9 MR. LOCKERETZ: And that was the original?

10 MR. JIM JONES: That's how it was
11 submitted to us.

12 CHAIRPERSON BRICKEY: Okay. Any other
13 questions for Jim?

14 Harry, thank you for coming today, too.
15 Okay.

16 MR. JIM JONES: So where and when are you
17 guys getting together next? I won't be in Washington
18 though, right? But in the January time frame?

19 PARTICIPANT: It will be discussed.

20 MR. JIM JONES: That's on the agenda?
21 It's related. All right.

22 CHAIRPERSON BRICKEY: We'll let you know.

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1 MR. HARPER: We want your input.

2 MR. JIM JONES: Although I will say that
3 USDA IF-4 Program is meeting this week in Tulsa,
4 Oklahoma. If you can avoid Tulsa.

5 (Laughter.)

6 CHAIRPERSON BRICKEY: Sometimes when I go
7 to Tucson they schedule me for Tulsa.

8 MR. JIM JONES: All right. Thank you.

9 CHAIRPERSON BRICKEY: All right. Thank
10 you. Okay.

11 Are our next speakers here from FAS? Oh,
12 they are? Shall we tell them to come in?

13 Let's do a five-minute break, and then
14 we'll come back and they'll start. Okay?

15 (Whereupon, the foregoing matter went off
16 the record at 4:42 p.m. and went back on
17 the record at 4:54 p.m.)

18 CHAIRPERSON BRICKEY: All right, folks.
19 Let's get quiet. We need to get started. All right.
20 Let's go. Let's get started.

21 MR. KEITH JONES: Thank you, Madame Chair.
22 I'm with the SEA National Organic Program.

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1 I'm in charge of the international efforts at NOP,
2 and we are on the program today, along with my
3 colleagues from the Foreign Agriculture Service, to
4 provide you an update as to where we're at with
5 equivalency discussions with our major trading
6 partners and other bits of trade information that I
7 think will be of interest to this group.

8 We know that you've spent a long time
9 today and have got a lot done. We don't want to take
10 any more time than necessary, and with that I will
11 introduce Kelly Strzlocki with Foreign Agriculture
12 Service, who will, in turn, introduce her colleagues
13 in rotation.

14 Thanks.

15 MS. STRZLOCKI: I'm Kelly Strzlocki with
16 the Foreign Ag. Service.

17 I recognize some faces, and I hope that
18 this isn't going to bore anybody too much, but I just
19 wanted to comment, and we wanted to show our faces and
20 tell you just briefly what FAS does and how we work
21 with the organic industry and how we hope to work with
22 the organic industry in the future and what our trade

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1 policy initiatives are.

2 I work directly. I am the commodity
3 analyst who's responsible for organic right now. I am
4 in the Horticulture and Tropical Products Division of
5 FAS. That just happens to be here we put organics.
6 We cover all organic commodities, but we're in the
7 Horticulture Division.

8 I work closely with the Organic Trade
9 Association, with the Market Access Program, which is
10 a marketing program that the Foreign Agricultural
11 Service allocates funding to all industries, all
12 agricultural industries to help them market their
13 products overseas.

14 OTA came to us in 1999, and we've been
15 funding them for the past three years. They've
16 developed an export directory. They done foreign
17 market research in Asia and Europe with our funding,
18 and this year we're still kind of deciding what the
19 funding is going to be used for, but we know we're
20 planning to do some work with Canada and possibly
21 start doing some generic U.S. organic promotions as
22 well.

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1 I just want to let you know that we're out
2 there and have some cards that give you access to our
3 Web site, and I put out a monthly newsletter called
4 "Organic Perspectives," which I hope to get up-to-date
5 E-mails from everybody on the Board.

6 I E-mail that out to just USDA people and
7 NOSB people, and I also put it on my Web site. And
8 basically that's just a summary of reports that we get
9 in from our attaches overseas who report on what's
10 happening in their countries as far as organic
11 production, trade, and other issues.

12 And that's all that I can really talk
13 about right now. I'd like to turn it over now to our
14 international trade policy people. They're the people
15 who are charged basically with working on any
16 equivalency agreements and following up on trade
17 issues.

18 And Mark Mannis is next.

19 MR. MANNIS: Thank you, Kelly.

20 Essentially in FAS we have two entities
21 that work on issues of concern to you, the commodities
22 group and then the trade policy, and I'm going to

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1 speak a little bit about from the perspective of
2 international trade policy within FAS.

3 There are three broad areas I'd like to
4 speak to. One is where are we on Japan. Two, where
5 are we with the European Union? And, three, just some
6 general notions on equivalence and what it means in
7 terms of reaching agreements, TBT agreements on
8 equivalence.

9 Starting with Japan, the first information
10 to report is actually since last Thursday, we now
11 found out that we actually have a meeting in Japan on
12 November 5th. That's a definite, and the purpose of
13 that meeting is to work toward developing an agreement
14 with the Japanese that will take us beyond the interim
15 agreement that expires in March 2002.

16 We did send Japan a month or two ago a
17 side-by-side comparing our regulation with theirs, a
18 side-by-side, and expect to get questions from them
19 within the next few days in two general areas, one on
20 permitted materials, and two, just on regulatory
21 oversight.

22 We do have a team that will be going over

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1 there to spend time the week of November 5th ideally
2 to negotiate an agreement and to resolve the matter
3 beyond the interim status.

4 So we have a couple of weeks. It's not a
5 lot of time, and we look forward to a continuing
6 dialogue with all interested parties as we begin to
7 focus on and enhance what our position is and what the
8 issues are for us going into this negotiation.

9 Now, in our view, it's more than simply
10 reaching an agreement, but beyond that, what should be
11 in that agreement and what are some of the issues of
12 concern that we're mindful of that we're going to
13 collaborate amongst ourselves in Washington and also
14 with folks on Tokyo?

15 And just to touch on some of those issues,
16 the whole context and the notion of certifiers and how
17 certifiers are identified and the manner in which they
18 are and who has the responsibility for doing that, we
19 do have evidence that leads us to believe that with
20 other countries Japan has proposed a fairly onerous,
21 burdensome process where it could take as much as six
22 months' time before certified could be approved.

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1 We don't think that that's an appropriate
2 way of doing business because ultimately it speaks to
3 the relevance, the competence of AMS, and that would
4 seem to suggest an undermining of that level of
5 competence if you have to go through such a burdensome
6 process. We want to focus on that issue.

7 Another issue is the application of
8 labels. In a number of instances, labels cannot be
9 affixed here. They have to affixed in Japan. That's
10 an extra set of steps. That's not an idea way of
11 doing business. We intend to explore this with the
12 Japanese as well.

13 The Japanese, we're led to believe,
14 anticipate asking us for certificates to accompany
15 each shipment. The issue there is who would issue the
16 certificate, what is gained by shipment certification
17 once you've gone through an equivalent, side-by-side
18 agreement. What is the role of the government, AMS in
19 this case? What might be the rule of others on the
20 part of AMS because this could, in addition, present a
21 significant burden, and we're not clear what the gain
22 is by shipment certification. We intend to explore

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1 this as well.

2 Another over arching question would be we
3 want this agreement to apply to all products. We
4 don't want to do this once and then come back in
5 December and January and so on. so that's the
6 perspective that we'll be pushing.

7 That gives you a flavor of a sense of what
8 some of the issues are, and I think it's really
9 critical. Now, it's not a lot of time. Lo and
10 behold, it's a couple of weeks, in effect. So we're
11 going to look for the best mechanism to prepare
12 ourselves within house, within USDA, but also we'd
13 like your views and your thoughts on how we can reach
14 out to the people who are in the business.

15 What experiences are you having? What
16 seems to be the most important issues for you? What
17 are some of your views on these issues and others?

18 And in the next few days, we're going to
19 look toward exploring the best vehicle for having that
20 kind of a two-way dialogue amongst ourselves because
21 what we gain going into this will be most beneficial
22 in terms of predicting a better outcome.

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1 So in a general sense, we would look to
2 everyone here to give some thought to how to reach
3 out.

4 MR. HARPER: But doesn't OTA have an
5 international committee? None of those people are
6 involved in that?

7 MR. MANNIS: Yes. In fact, did you want
8 to speak to that, Bob?

9 PARTICIPANT: Well, yeah. We've actually
10 had some discussions in the last couple of days about
11 the vehicle, but what Mark is especially asking is
12 beyond even OTA, for people who are engaged in trade
13 and might not be on that committee who may very well
14 have things to add.

15 MR. MANNIS: What we thought we would do
16 is to use that vehicle, but not use it exclusively.
17 In other words, make it more expansive and given the
18 relatively short period of time, it's possible that
19 perhaps next week we would try to set up a conference
20 call where we would start to lay out in some more
21 detail the issues that we have and invite that
22 committee or anyone else that's interested to react to

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1 that and give us feedback.

2 Because the more information and the more
3 data we have, the better armed we are. The likelihood
4 of success is enhanced.

5 And the interesting thing here is that
6 this is here, present, right before us. So it's not a
7 theoretical question. It's quite real.

8 MR. RIDDLE: Yeah, Mark. On this issue of
9 reaching out, I mentioned this, brought it up, that
10 when you spoke at the OTA briefing, but in front of
11 the Board I just wanted to mention it again.

12 Our Board has an international committee
13 on paper, but right now it's not functioning, and once
14 we have new appointees and reconfigure the Board, it
15 certainly seems like that would be another vehicle for
16 input, and then you know, it's not going to help in
17 the short term, but down the road and as things
18 develop with the EU, you know, I think that would be
19 important for this Board to consider reinvigorating
20 our international committee.

21 MR. MANNIS: I couldn't agree more. I
22 guess I see this as a series of steps. Now, the quite

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1 significant step is in a few weeks with Japan, but
2 that's first. It will not be the last, and it's
3 probably good to start with Japan in that it's a one-
4 way agreement that we're seeking entrance, as opposed
5 to a more complicated and challenging reciprocal
6 agreement that lies ahead, i.e., the EU, in
7 particular.

8 So to the extent that it takes some time
9 to get this off the ground, that's great, and we look
10 forward to working with that committee if it's
11 reconstituted, and also with the OTA committee.

12 But, frankly, I think it would be better
13 for us or easier to be able to call one or two people
14 and say, you know, "We need feedback. If we have a
15 conference call, can you organize it, get interested
16 parties on the line and so on?"

17 That might just facilitate dialogue and
18 communication as opposed to reaching out to each and
19 every person.

20 We're trying to be as inclusive in
21 bringing people in as possible. We know that that's
22 going to take a little time. It's always great to get

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1 energized when you know the time is right before. I
2 did two weeks in Japan, but don't look at that as the
3 end. That's the beginning.

4 So that's by way of an update on Japan,
5 and it just sort of segues into the next issue of
6 Europe where by design we wanted to start with Japan
7 and then look toward Europe beyond for some obvious
8 reasons, one of which I've alluded to already. It's a
9 lot more challenging and complicated when it's two-way
10 because then you're both an importing country and an
11 exporting country in terms of these issues.

12 And what you're asking of someone in the
13 case of Europe, you can certainly expect in return the
14 same to be asked. That's more of a challenge. It's
15 also more fun and more interesting.

16 We do have implementation issues today
17 with Europe in terms of lack of uniformity and what
18 goes on in ports of entry, and that's particularly
19 noticeable in certain countries, such as Germany where
20 the responsibility, the confidence has been delegated
21 out to the individuals. So you have got 15
22 individuals, 15 potential different approaches.

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1 We're sort of a little bit in flux with
2 Germany in terms of what they recognize our system to
3 be and how that's categorized in 20.92.91. We're in
4 the not really favorable 11.6 category, and that has
5 certain ramifications, and my understanding is we're
6 the only developed country that's on that list.

7 So we're in sort of a unique position
8 where we do not normally like to see ourselves.

9 There's an endpoint. Now, it's a little
10 bit out, but beyond which we could no longer be on
11 that list, and I think ideally we don't want to be on
12 that list. We would rather be on the list of the
13 country that's been deemed equivalent.

14 The Europeans are also anxious because of
15 what happens in October of 2002 relative to the fluent
16 limitation of the NOP. It's sort of an interesting
17 coming together potentially of interests where they're
18 pushing because they're not necessarily looking
19 forward to what lies ahead in October 2002.

20 The question I would put to everyone here
21 is: what should we do with that interest on their
22 part? What are the ramifications of reacting to that

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1 or not reacting to that?

2 We're not forced to react to that, and
3 interestingly enough, the Europeans could then in the
4 alternative elect to move forward under Option 1 in
5 NOP, which would actually facilitate their ability to
6 export to the U.S. beyond what they do today.

7 If we continue to stay on 11.6, we in
8 reality would be in a less favorable position absent
9 an equivalence agreement from where they are today.
10 So, in other words, they could move forward and make
11 progress, whereas we, if we so chose, could not.

12 That has some negative ramifications that
13 need to be explored. I think in dealing with the
14 Europeans it's a lot more challenging, and we would
15 really have to have our act together in terms of
16 getting issues before us from the Board and everyone
17 else. But that's out on the horizon a little bit.

18 Another issue that's less on the horizon
19 or closer horizon, if you will, is what the Europeans
20 are intending to implement effective July next year in
21 terms of added measures on the border, and in a moment
22 I'll ask my colleague Audrey Talley to speak to that

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1 because that came up recently last week in a TBT
2 meeting that Audrey attended.

3 So she can give you more insight into that
4 aspect of the European situation.

5 Finally, I'd like to shift to some general
6 thoughts about equivalence. We within USDA have
7 thought about the benefits of a public meeting on
8 equivalence, the process of equivalence, what that
9 means, and how it should be carried out in the true
10 spirit of transparency, opening it up to the public
11 and getting an opportunity to get input from the
12 public on that process.

13 Because we anticipate these issues of
14 equivalence determinations, equivalence agreements are
15 beginning, not ending. We will do that when we can.
16 It certainly will not be before Japan, which is in a
17 couple of weeks, and that we would seek to lay out a
18 general notion of what we anticipate or what our view
19 is on equivalence as defined in TBT agreement.

20 And in that agreement, it speaks to
21 equivalence. It doesn't speak to concepts of
22 functional or partial equivalence. It simply is

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1 equivalence, but what does that mean operationally?
2 How do you actually implement an agreement? What is
3 the process that one goes through? What are the
4 responsibilities of the importing country? What are
5 the responsibilities of the exporting country in terms
6 of reaching equivalence agreement?

7 We think there might be some merit to
8 laying this general notion out and get comments, but
9 it's an ongoing process in that we'll probably be in
10 some negotiations or anticipating negotiations in
11 advance of this public meeting. The work still has to
12 go on, but nevertheless, we think it's useful to have
13 this kind of open exchange.

14 That is something to just sort of note in
15 passing, but we anticipate having such an activity in
16 the not too distant future.

17 So what I touched on briefly this
18 afternoon is a status report on Japan and some notions
19 on Europe, and then general thoughts to be continued
20 on equivalence and what that means operationally.

21 Now I'd like to ask my colleague, Audrey
22 Talley, to fill us in in more detail on the question

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1 of Europe, July 2002, at the border.

2 MS. TALLEY: Good afternoon, and I really
3 am pleased to have the opportunity to talk to you
4 today and to follow the distinguished colleague, Mark,
5 who, by the way, is our lawyer. I don't know if he
6 mentioned that. Mark has a lot of experience on
7 equivalency. So we'll be looking forward to using
8 some of that experience to figure out how we or begin
9 to look at how we might develop agreements that will
10 benefit U.S. trade in organic products in the future.

11 As Mark mentioned, I just came back last
12 week from Geneva here the TBT Committee meetings.
13 Just for some of you who aren't aware, my office is
14 the WTO, which is the new GATT. We monitor the WTO
15 transparency provisions of the new GATT, the WTO.

16 We do that by monitoring other countries'
17 notifications of rules that could impact trade. Twice
18 a year the entire committee of countries who are
19 members of the WTO come together in Geneva to ask each
20 other questions about those notifications that they
21 have identified as having significant impact on trade.

22 The U.S. looked at two issues with the

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1 European Union this past week dealing with the
2 European Union, and as Mark indicated, the first dealt
3 with the European Union's proposal on organic import
4 regulations.

5 What the EU did on February 6th is notify
6 the WTO that it planned to issue border controls that
7 included certification requirements. Part of those
8 requirements would require that each member state
9 assure that organic products entering its state had a
10 valid import authorization.

11 The U.S. commented on the EU proposal on
12 February 18th, and with our comments we noted that
13 there really was no procedure in place that would
14 identify how the member states would be implementing
15 this new certificate import authorization program or
16 who within the member states would be responsible.

17 So in one state you could have a Customs
18 authority verifying that a product coming in through
19 London or the U.K. that would come over to one of the
20 launders in Germany. That launder in Germany would
21 have to verify that there was a valid import
22 authorization.

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1 Well, there's no communication between the
2 different member states either. So we had a number of
3 issues that we brought to the attention of the
4 community. Unfortunately the community said that for
5 procedural reasons they weren't able to take into
6 consideration our extensive comments, and that
7 unfortunately they had planned to adopt this
8 regulation this September 2001 to be enforced this
9 next July 2002.

10 Because we were not able to have a
11 discussion around how these requirements had even
12 responded back to us on the concerns that we had
13 identified, these were brought up in the TDT Committee
14 with the European Union and the rest of the TDT
15 Committee.

16 We also indicated that we would continue
17 to have -- we had a side meeting with the commission,
18 and during that side meeting, the commission mentioned
19 that it would be taking back our concerns again to the
20 community and requested more information on how the
21 member states would be implementing these different
22 and very important on board controls. We indicated we

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1 will follow up on that.

2 Our second intervention during the TBT
3 Committee with the European Union was an intervention
4 that addressed under Article 10 of the TBT Committee
5 the need for one country when entering into a trade
6 agreement with another country, that one of the two
7 countries had an obligation to notify that agreement.

8 As Mark mentioned, the U.S. ships organic
9 products under what is referred to as Article 11.6,
10 under the 20.92.91. Those countries who have entered
11 into and have approved at -- have been identified as
12 equivalent, continue to ship products under what's
13 called the 11.2 article.

14 These equivalency agreements under 11.2
15 were in existence for Switzerland, Australia,
16 Argentina, Czech Republic, Hungary, and Israel.

17 So prior to the meeting that I just went
18 to, we sent out through our notification authority,
19 which is my office, to each of the inquiry ports of
20 these countries, a request for copies of their
21 equivalency agreements with the European Union as
22 stated, as required by Article X of the TBT agreement.

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1 We received only two of these agreements,
2 Australia and Switzerland. We indicated during the
3 TBT for the record that we will be going back and
4 following up with each of the other four countries,
5 and again request copies of these TBT agreements and
6 these equivalency agreements under the TBT Article X.

7 We were hoping that having done so, we
8 will begin to put the European Union and other
9 countries on notice that we're very serious about
10 clearly understanding the conditions and the scope of
11 such agreements as it relates to this product area.

12 And on that note, I think I'm going to end
13 and ask if there are any question. I think I can take
14 all of your questions then.

15 MR. KING: Audrey, what does TBT stand
16 for?

17 MS. TALLEY: There are two agreements that
18 relate to agriculture under the WTO, the technical
19 barriers to the trade agreement which are under the
20 sanitary/phytosanitary agreement.

21 PARTICIPANT: Currently a lot of our
22 products won't meet the first process here. And, yes,

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1 I've asked for certification to follow all the way
2 through that process, and one of the requirements is
3 that they have so they can keep the certification
4 program third process instead.

5 MS. TALLEY: I think that's one of the
6 issues that Mark had mentioned during his discussion,
7 that we need to hear from you about. We need to
8 understand where the pitfalls are. That's a very good
9 example of getting to the question of exactly what is
10 it that the Japanese are going to get out of it.
11 Where are the limitations? Where are the concerns
12 that our organic traders have with how this system
13 functions right now?

14 That's what's going to be discussed next
15 week.

16 MR. KEITH JONES: We would be happy to get
17 with you one on one after we break, exchange cards,
18 and make sure you get an E-mail address and
19 everything, that others write. That is exactly the
20 information that we need to have.

21 As we make this presentation to OTA last
22 week, one of the things that we said very strongly is

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1 that we want to be armed and prepared as we go into
2 these negotiations with the details, not just have
3 them with you, but know exactly what problems you have
4 had at the specificity level that you're talking
5 about. So we'd be happy to.

6 MS. TALLEY: That's an excellent question
7 for the Board.

8 (Laughter.)

9 MS. TALLEY: I'm sure they're prepared to
10 consider it.

11 MR. RIDDLE: I had a question for Mark,
12 and that is have you started or completed the side-by-
13 side with the EU reg. yet? You mentioned the one with
14 Japan.

15 MR. KEITH JONES: Yeah. Jim, we have
16 completed a side-by-side with the EU on a cursory
17 basis, and also contracted with OMRI to do some work
18 on the materials review. That material review is
19 probably not going to be completed until some time in
20 December because what we want to do is get our feet
21 wet with Japan, take that knowledge bases, take that
22 learning experience, and then apply it to the EU

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1 discussion.

2 So we think probably the practical matters
3 being considered, we'll be ready to actively or we
4 hope, depending on how the Japanese discussion goes,
5 but we would hope I think that we would be actively
6 looking to enter into discussions with the EU, you
7 know, at the end of the year certainly or the first of
8 next year. That's the kind of time frame that we've
9 got laid out.

10 MR. HARPER: One more definitional
11 question. What is a launderer? I mean, I know what
12 some launderers are, but --

13 (Laughter.)

14 MR. MANNIS: It's similar to our states.
15 It's below the national central government.

16 MR. LOCKERETZ: I have a question. I have
17 heard recently about two possible TBT issues that
18 could be raised by our program, our final rule, and
19 I'm wondering if it has come up in your shop, and if
20 so, whether they're under serious consideration.

21 One is the argument that nationally
22 governmentally enforced ecolabels, that they be

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1 regarded as a TBT as opposed to privately certified
2 labels, and I don't know the whole argument, but I've
3 seen it raised, and the other is that the \$5,000
4 exemption may be considered a TBT -- not a TBT, but
5 may be considered in violation of WTO rules because of
6 giving preferential treatment to a certain group.

7 Have you heard these arguments? And if
8 so, is there anything to them?

9 MS. TALLEY: We've heard the \$5,000
10 exemption, but we're not convinced that a subsidy
11 given to a domestic industry to offset its domestic
12 cost would apply as a national treatment argument. We
13 believe that if other countries are trying to
14 facilitate their certifiers, getting approved in the
15 United States for 5,000 or whatever, that would be in
16 that country's interest to do so.

17 But as I understand it, that \$5,000
18 exemption for certifiers is given as a domestic --
19 correct me if I'm wrong -- that that would not be. It
20 is a temporary exemption, if that. You have the
21 beginning and end.

22 PARTICIPANTS: No.

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1 MR. KEITH JONES: Let me address that. We
2 looked at a \$5,000 exemption. We, USTR and USDA,
3 looked at the \$5,000 exemption in terms of the TBT
4 implication. We spent a lot of time on that. We do
5 not believe that there is -- we do not believe that
6 there is an issue. Should it become an issue, it
7 would probably be pretty easy to handle government to
8 government in terms of just having some sort of
9 adaptation, you know, from a producer that's not
10 producing \$5,000. In other words, equal treatment.

11 So either way, I think we're safe. One,
12 it's either not an issue. Two, if it did become an
13 issue, it's probably not too hard to correct.

14 MR. LOCKERETZ: The other question or
15 concern, define and enforce equal labels of which
16 organic would be an example. The argument is that
17 that may present TBT when it's governmentally enforced
18 as opposed to private label. Have you heard this
19 argument?

20 MS. TALLEY: I've heard some of that, but
21 I don't believe that the ecolabel and the organic
22 label are considered the same argument, and I think

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1 maybe we can talk a little bit more after the meeting.

2 MR. LOCKERETZ: I don't know more about
3 it. I just heard it is --

4 MS. TALLEY: It has been, but ecolabeling
5 has been identified in a number of international fora
6 on ongoing questions in terms of how countries apply
7 it and whether or not --

8 PARTICIPANT: And verified petitions of
9 it.

10 MS. TALLEY: Exactly. So it's not just
11 that it's an ecolabel. It's how governments apply
12 ecolabeling as it relates to the use of that label by
13 non-domestic products, the access to the labeling and
14 other issues. There are a host of issues that are
15 involved in that question.

16 MR. KEITH JONES: We've probably got time
17 for one more question so that we can break on time.

18 (Laughter.)

19 MS. TALLEY: I did want to mention that
20 may office, again, is the inquiry point for
21 agriculture. We monitor the WTO agreement for -- we
22 look at both SPS issues, which are issues related to

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1 health and safety concerns and TBT, which are issues
2 related to label and public health issues as it
3 relates to agriculture.

4 The reason I say that is that when
5 countries notify ag. related issues like the European
6 Union import regulations, we have an existing mail
7 list that anyone in this room can get on, and we will
8 let you know.

9 Right now OTA comments on a routine basis,
10 and they gave us very extensive comments on this. If
11 anyone is interested in receiving notifications from
12 other countries, we can see what's being notified on
13 our newsletter on a weekly basis or you can be placed
14 directly on our mailing list.

15 Thank you all very much.

16 CHAIRPERSON BRICKEY: We appreciate you
17 coming. Thanks, Keith.

18 All right. Before I forget, I want to
19 give out this testimony that we received from one of
20 our speakers this morning so that we'll have it.

21 And I want to go to Steve to do his
22 committee item for the Processing Committee.

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1 MR. HARPER: I'm going to stay up so
2 people can see me back there.

3 There are basically two items that are
4 non-material issues on the processing committee. I
5 think only one is listed in the agenda. I'm going to
6 go to the one that's not listed in the agenda first.

7 There was an issue of or there was some
8 concern about how meat was going to be labeled sort of
9 in the interim before the final rule, as well as when
10 the final rule went into effect, and Robert Post with
11 the FSIS is going to be coming on Wednesday at one
12 o'clock to discuss that issue. A number of questions
13 have been submitted to him to try to clarify that
14 issue.

15 That's the first thing I wanted to make
16 note of, and that has to do with meat labeling.

17 And then the second thing, and the public
18 does not have this because it was just developed, and
19 it has been passed out to the Board, and that is a
20 draft document that we intend to put on the Web for
21 comment, and it's the beginning of trying to put into
22 effect some guidelines for determining what processing

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1 technologies shall be reviewed by the NOSB, and these
2 are processing technologies that we believe are beyond
3 what are implied by 205.605.

4 And so, everybody, I did pass these out.
5 Did you receive them?

6 CHAIRPERSON BRICKEY: Yes, yes.

7 MR. HARPER: I passed them down. Okay.

8 And I don't know. Do you want me to pick
9 one of these and read it off?

10 For the audience I am going to read it,
11 and I have a couple of extra copies. I have actually
12 two extra copies, but if you people want to look at
13 this.

14 And basically the issue is how do you take
15 some unique technologies, such as things that have not
16 been really looked at carefully, like activated
17 carbon-ion exchange, where there's not really -- the
18 certifiers have sort of drawn their lines in the sand
19 as far as what's allowed and what's not allowed, but
20 it's not really clear on an NOP on a national scale or
21 in the regulations whether they're allowed or not.

22 And so we tried to put some guidelines

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1 together, and I did send this out for comment to a
2 number of OTA and OMRI technical people to get input
3 in. I got six or seven comments back. So between
4 those comments and the comments -- and the Processing
5 Committee, we put this together.

6 So basically we're suggesting that this be
7 put on the Web, and we'll take comments on this.

8 The NOSB Processing Committee is
9 requesting comments on the following guidelines. The
10 guidelines will serve as a guide to processors,
11 certifiers, and others in determining whether a
12 process that does not appear to fit into the category
13 of allowed processes which are described in the
14 definition for processing and in 205.270 -- that's
15 actually what I meant, 205.270 -- (a) need to be
16 submitted to the NOSB for review.

17 And here are the guidelines. One,
18 processes that are strictly mechanical or biological
19 are allowed for processing of organic food products.
20 Any process that does not cause a change in the food
21 other than by mechanical or biological means and does
22 not introduce non-agricultural substances other than

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1 those allowed in 205.605 would not need to be
2 reviewed.

3 And number two, processes other than
4 mechanical or biological because in 270(a), it
5 specifically allows mechanical and biological; other
6 than mechanical or biological processes that are
7 primarily intended to make or break covalent chemical
8 bonds are subject to review by the NOSB before being
9 allowed in the processing organic food products.

10 An example is chemical carbohydrate
11 conversion processes.

12 Number three, processes in which non-
13 agricultural substances other than those allowed in
14 205.605 are -- okay. I want to start again.

15 Processes in which non-agricultural
16 substances, other than those allowed in 205.605, are
17 components of the materials and are introduced into
18 the food, are subject to review by the NOSB before
19 being allowed in the processing of organic food
20 products.

21 The materials not allowed in 205.605 that
22 are introduced in the food would also need to be

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1 petitioned. An example would be hydrogenation of oil,
2 where the catalyst as well as hydrogen -- neither one
3 of those are on the national list. So they would have
4 to be petitioned.

5 Number four, processes in which specific
6 chemical components of the food are selectively and
7 purposely removed during the process via our chemical
8 process versus the mechanical process are subject to
9 review by the NOSB before being allowed in the
10 processing of organic food products.

11 An example of this would be ion exchange
12 processes.

13 And then number five is a sort of a catch-
14 all. Any other process not covered by the above list
15 of guidelines -- actually I need to clean this up --
16 that appear not to fit into 205.270(a) shall be
17 submitted for review.

18 An example would be UV light where it
19 doesn't really fit into any of these categories, and
20 so basically if you can't figure out whether it should
21 be reviewed or not, it doesn't seem to fit anywhere,
22 it's better to be reviewed, and you should submit it

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1 for review.

2 And I know it's difficult to sort of -- I
3 didn't have a copy to put on there, but this is an
4 attempt as a draft, and it's going to be on the Web
5 for comment, and then we'll try to hone it down. I
6 think our intention on this is not necessarily that
7 it's going to be regulation, but it's guidelines and
8 programs. But I think we still can talk about that
9 and see where it fits exactly.

10 Any questions? Yes.

11 MR. RIDDLE: Yeah, one thing I'm thinking
12 about right here is, you know, these different
13 categories that would need to be reviewed. I think we
14 need to give more thought into what they'd be reviewed
15 against, what criteria.

16 I mean it's one thing to say they need to
17 be reviewed, but then how do they get approved or
18 rejected and what's the measuring step?

19 MR. HARPER: Well, I think that there's
20 more work, and this is our first attempt. We just got
21 information, and that is true. We need to try to put
22 some criteria on this.

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1 PARTICIPANT: Do you have an example for a
2 couple of these? What kind of products would be an
3 example of butter or margarine or whatever?

4 MR. HARPER: Well, hydrogenation of oils,
5 and these oils are a clear case in point. There's
6 lots and lots of partially hydrogenated and
7 hydrogenated oils in margarine and all kinds of food
8 products, shortening and ion exchange processes where
9 you basically deionized grape juice, where you have
10 basically clear, white grape juice as an example.

11 Carbohydrate conversion processes, that
12 would be a chemical processing of cornstarch, a
13 collection of cornstarch via acid versus enzymatic
14 production processes, for example.

15 Yes?

16 PARTICIPANT: Those are clearly synthetic
17 processes. Why would those need to be reviewed?
18 That's my question.

19 MR. HARPER: Well, I think that there's a
20 confusion sometimes between materials and a process,
21 and it's just -- it's trying to sort of help. It's
22 trying to help out -- the purpose of this is to help

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1 certifiers and the Board and certifiers, as well as
2 people in the industry to understand what they need to
3 be, you know, reviewing and paying attention to.

4 I mean, because sometimes the process,
5 it's not clear whether it's just a process like when
6 you're filtering something or you're filtering,
7 actually taking out, selectively taking out
8 ingredients when you're filtering.

9 And so there's some fuzzy lines, and I
10 think that was the attempt trying to clarify those
11 types of situations.

12 This is nowhere near finished. It's like
13 the first attempt, and I'm sure it will take a while
14 to get this thing tuned up. But we wanted to get it
15 started someplace because it's a whole other area we
16 haven't sort of dealt with yet.

17 Any other questions?

18 CHAIRPERSON BRICKEY: Okay.

19 MR. HARPER: Okay. That's all we've got
20 besides materials.

21 CHAIRPERSON BRICKEY: Owusu.

22 MR. BANDELE: Yeah. I will start with the

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1 crops report.

2 CHAIRPERSON BRICKEY: You would like to
3 sit over here where you can actually see and be seen?

4 MR. RIDDLE: I'll have to admit I thought
5 we were going home before we got here.

6 CHAIRPERSON BRICKEY: Excuse me. Just one
7 thing. We will go to six o'clock, and we're going to
8 adjourn for the day. So I want everybody to know
9 that.

10 MR. SIDEMAN: Mark, the composting report
11 is in here, right? Under crop?

12 CHAIRPERSON BRICKEY: It should be in Tab
13 7.

14 MR. SIDEMAN: Very good. Yeah, there's no
15 title on it, and people in the audience have got
16 copies of this?

17 PARTICIPANT: That didn't get here either.

18 Let me -- I've got it upstairs. I'll be right back.

19 MR. SIDEMAN: Well, I don't know if we'll
20 be done before you get back.

21 PARTICIPANT: I do want to make it for
22 that package. I'll be right back.

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1 MR. SIDEMAN: Okay.

2 MR. SIDEMAN: Owusu, do you want to do
3 another item and come back to compost when Mark gets
4 back?

5 MR. BANDELE: Okay. I really wanted to do
6 the greenhouse. Sorry about missing the packet, but I
7 did E-mail everyone with the draft of the greenhouse
8 thing, and so I would like to point out though that
9 the draft that appeared on the NOP Web site was not,
10 in fact, the last draft of the committee worked on.
11 There were certain elements that we had added in that
12 did not appear.

13 For example, there was a provision for
14 separate watering systems when there's a mixed
15 operation between conventional and organic and when
16 there were synthetic pesticides pass through that
17 watering system. So that did not appear on the Web
18 site, but the committee did, in fact, add that in.

19 You see before you the draft as was E-
20 mailed. The only exception was that we did make a
21 change as far as allowing an exemption from the crop
22 rotation and cover crop requirements for container

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1 growers in the greenhouse situation. And that would
2 be found under Subsection A(1), and that's really the
3 only change that was made in the draft that was sent
4 out to the Board.

5 Another component, we did leave in -- and
6 incidentally, the revisions that were made did
7 reflect, in fact, the comments that we received. I
8 think the language is more conducive to being included
9 in the rule at this point. I think OTA had sent in
10 some recommendations on that regard which we did
11 adopt.

12 Another change that was made from the
13 draft that appears on the NOP is that several
14 greenhouse growers who have dealt with tomatoes had
15 comments to the effect that a crop rotation system was
16 not, in fact, a viable system under their programs.
17 They could not deal economically with coming into the
18 crop rotation system.

19 So we did allow some relief from that, but
20 we're still calling for crop rotations, but that
21 alternative strategies could be utilized. For
22 example, a couple of the growers, even though they

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1 weren't rotating the crop, they did bring in soil.
2 They did kind of rotate the soil within the greenhouse
3 structure.

4 So we did make an allowance on that based
5 on the comments that we received from those growers.

6 And the other point that was left out of
7 the draft that was on the Web site had to do with the
8 provisions for insuring that no contamination occurred
9 between organic crops and crops that were produced
10 through genetic engineering, that there had to be some
11 provision to avoid cross-pollination in that case.

12 So that was not on the draft on the Web
13 site, but it was on the final draft that the committee
14 had drawn up.

15 We did leave in, even though, for example,
16 205.209(b), the use of potting mixtures containing
17 prohibited materials is not allowed. That really
18 would be covered under the existing rules in terms of
19 what's allowed and what's not, but we did leave that
20 in for emphasis. So I don't know what will happen
21 with that eventually.

22 And I think that about sums up the

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1 recommendations on the greenhouse. Are there
2 questions on that?

3 MR. RIDDLE: Yeah, I have a couple
4 comments. Well, some suggested changes, and two of
5 them are really technical, and one is substantive.
6 And I've got them in writing here so that I can give
7 them to you afterwards.

8 But I would just suggest in the definition
9 of greenhouse that we use the same terms that are
10 defined in the rule, being annual seedlings instead of
11 just seedlings. That's a defined term.

12 And then planting stock instead of plant
13 stock.

14 And then in A(1), 205.209(a)(1), towards
15 the end there it references prohibited substances as
16 listed in 205.201, and I believe that should be
17 205.105, which is where the prohibited substances are
18 summarized.

19 So those are kind of technical, but then
20 the other is Item G. I guess I'm a little
21 uncomfortable with the language. If the producer is
22 growing both organic and nonorganic greenhouse crops

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1 using a bench system, it is recommended that those
2 crops be grown in separate greenhouse structures.

3 If it's the intent to just give some
4 guidance, then that's fine. But it maybe should be
5 moved to like an introductory statement, but if the
6 intent here is to draft some regulatory text, I don't
7 think the NOP likes things like recommended.

8 So I did rephrase it and so that it
9 references the protection or preventing commingling
10 and contamination that's already spelled out in the
11 rule.

12 And then I know the next section is
13 excellent. It really gives specific examples of
14 requirements that you must do to protect or prevent
15 commingling and contamination.

16 So it's either not necessary and just
17 should become an introductory guidance paragraph or
18 else maybe take what I've suggested, but I think
19 you've covered off the real points under H anyway.

20 MR. BANDELE: Yeah.

21 PARTICIPANT: So you could just take G
22 out.

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1 CHAIRPERSON BRICKEY: Yeah.

2 MR. RIDDLE: I think so, yeah. It's just
3 really -- yeah.

4 MR. MATHEWS: Yeah, I don't understand the
5 purpose of G myself.

6 CHAIRPERSON BRICKEY: Right.

7 MR. BANDELE: The purpose, as I understand
8 it, was that most of these -- a lot of these
9 operations would not, in fact, lend themselves to
10 mixed operations. So we couldn't really enforce that,
11 but we did discuss taking that out and moving it into
12 the introductory part as opposed to --

13 MR. RIDDLE: As part of kind of a
14 committee report or overview. I'll just give you
15 that.

16 MR. BANDELE: I can deal with the
17 transition at this point. There was quite a bit of
18 discussion on transitional labeling. Several members
19 of the committee felt that this was, in fact, a very,
20 very important component, particularly in areas of the
21 South, new farmers, in other areas as well in terms of
22 having some economic reward or compensation to

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1 encourage farmers to make a transition.

2 So we did, in fact, draft some
3 recommendations on transition. That was drafted by
4 Jim. The Crops Committee did react to that, and I
5 think certain changes were made. So, Jim, I would
6 allow you to discuss that if you will.

7 MR. RIDDLE: Sure. Well, it's in the book
8 under Tab 7 if you haven't already turned to it, and
9 three different definitions are being proposed here,
10 one for transition, transition period, and
11 transitional product, and actually that sheet I just
12 gave to you, can I have that back? Because at the
13 very end of it I had a note there.

14 Yeah, I see it. Thank you.

15 I have received some comments. This has
16 been posted on the Web and got some comments since I
17 have been here to rephrase that transition period
18 somewhat, and so I'm proposing that it read,
19 "Transition period: the time between the start of
20 organic management and when an operation or portion of
21 an operation is eligible for organic certification."

22 It doesn't mean that it's certified.

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1 Someone could complete their transition and not get
2 certified right away or they may be a small operation
3 and not even have to get certified, but they still
4 have completed the transition period. So it just is
5 cleaning up the text there.

6 And then, Owusu, you were pointing out
7 it's in 205.104(a), that it references once again
8 after 12 months of production using organic methods
9 that something can be labeled as transitional or
10 certified transitional, but that isn't fully
11 consistent with (d)(1) and (2). There's really two
12 options given in (d)(1) and (2). One is 12 months of
13 organic management or 12 months with no application of
14 prohibited materials.

15 So I think we need just a little bit more
16 work on that language under (a) to make that fully
17 consistent.

18 MR. BANDELE: Well, the intent was to have
19 someone be eligible for transitional labeling once
20 they had decided to move into that type of production.

21 So they did not, in fact, have to be in production as
22 long as there were no -- the end of putting in

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1 prohibited substances. That was really the intent.

2 So the person did not really have to be in
3 production, in organic production to receive that.

4 MR. RIDDLE: There were some comments down
5 there.

6 MR. LOCKERETZ: On Section B, could that
7 provide evidence of -- to whom is that evidence being
8 provided?

9 MR. RIDDLE: They're getting certified.

10 MR. LOCKERETZ: Oh, it doesn't say that.

11 CHAIRPERSON BRICKEY: Well, it says "may
12 be granted."

13 MR. RIDDLE: B and C, yeah. In order to
14 label transitional product, the definition of
15 transitional product requires certification, and then
16 B and C, develop organic plan and at least one
17 inspection.

18 MR. MATHEWS: I have to agree with Willie.
19 That's --

20 MR. LOCKERETZ: Are you looking at the
21 version of September 7th?

22 MR. RIDDLE: Yeah, Draft 3.

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1 MR. LOCKERETZ: Well, there's this word
2 "transitional" without certified.

3 MR. RIDDLE: Yeah.

4 MR. LOCKERETZ: So there's no requirement
5 of being under a certified during all of this period,
6 is there?

7 MR. RIDDLE: Okay. So there should be
8 another step after C there that links it to certifier,
9 even though the definition of transitional product
10 clearly states that. Read the definition there, and
11 that's the intent, but, yeah, you're probably right.

12 MR. MATHEWS: And the question I have is
13 what's to prevent these people from being transitional
14 for 30 years?

15 CHAIRPERSON BRICKEY: That's a slow
16 learning curve.

17 MR. MATHEWS: But I mean you don't have
18 anything in here that prevents somebody from saying
19 they're transitional and they go on for 30 years as a
20 certified transition.

21 MR. RIDDLE: What would be wrong with that
22 if they wanted to make that claim? But, I mean, the

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1 market drives it, is one thing, but are you saying
2 that there should be a limit on how long you can be
3 transitional?

4 MR. MATHEWS: I'm just asking.

5 MR. KING: Well, but it's like transition
6 to what. I mean, are they constantly in transition?
7 And so your hope is that the transition is defined and
8 that they eventually become --

9 MR. RIDDLE: Well, one thing to think
10 about, you know, if we do want to try and capture that
11 is a lot of farms will have continual fields. So the
12 operation may be in transition for five years, but
13 different fields have moved into organic, but they're
14 still qualified to sell both transitional product and
15 organic product.

16 So you don't want to limit it on the
17 operation just to three years or something because
18 they may keep bringing new fields in, anticipate a lot
19 will if there's a premium.

20 MS. BURTON: There was some concern at the
21 QAC meeting yesterday with establishing a time limit
22 for transition and transitional products, that it

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1 might establish a new label and people might stay
2 there, and it would actually hurt the organic
3 industry.

4 It's to encourage and to reward during
5 that phase, lessening, on one hand, the impact of the
6 cost of living through that phase, which admittedly
7 depends upon the cost.

8 CHAIRPERSON BRICKEY: Doesn't this go back
9 to the comments that Mike Slye made this morning about
10 the label versus the transition, the three things?

11 MR. RIDDLE: Yeah, yeah.

12 CHAIRPERSON BRICKEY: Maybe we need to
13 look at that through those lens a little bit.

14 MR. LOCKERETZ: Jim.

15 MR. RIDDLE: Yeah.

16 MR. LOCKERETZ: There's a situation in
17 which some fields are in transition and some fields
18 are certified. You basically have a split operation
19 as far as the safeguards of the organic conventional
20 split operations which are, you know, intended to keep
21 the two separate.

22 Guys raising some transitional tomatoes,

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1 some organic tomatoes are fielded in the same location
2 basically. It seems to be a horrendous problem to
3 keep those separate.

4 MR. RIDDLE: Well, that's addressed in the
5 organic rule already. That is a split operation,
6 keeping transitional from organic, but I think you've
7 got a point, and that is there's nothing here linking
8 keeping transitional from conventional. That's
9 another type of split operation that doesn't have
10 anything organic yet, but you still have to prevent
11 the commingling and contamination.

12 MR. LOCKERETZ: Well, no, but we were
13 transitional from -- if a guy is on a rotation plan
14 and some fields haven't gotten in recertification yet,
15 they can't be separate. In fact, if it's part of the
16 rotation plan, the transitional and the certified are
17 quite independently associated with each other.

18 So you can't have split operations.

19 PARTICIPANT: Sure, you can.

20 MR. RIDDLE: That's covered under the
21 organic rule.

22 MR. LOCKERETZ: The mechanical rule

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1 doesn't talk about transitional at all.

2 MR. SIDEMAN: Isn't something
3 automatically going to become organic after three
4 years? Because transitional is following all of the
5 organic practices, but just haven't met the waiting
6 period. So after three years they are organic.

7 MR. RIDDLE: And they can sell it as
8 transitional.

9 MR. LOCKERETZ: Yeah, they cannot rotate
10 between organic and --

11 MR. RIDDLE: No, I think by definition you
12 can't call it transitional anymore.

13 MR. LOCKERETZ: They can do that in
14 transitional.

15 MR. KING: Okay. I think we're really
16 saying -- let's say that a grower had several fields,
17 five, just to throw out a number, and you're growing
18 three different crops, but you're rotating those
19 crops, and in one year it might be the same crop could
20 be in a transitional field, okay, or the reverse.
21 Take that example.

22 MR. RIDDLE: What's the reverse?

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1 MR. KING: The reverse is that it's
2 inorganic. You've been certified to market that crop
3 as organic and the next year you don't grow it as
4 organic. You know, so --

5 MR. RIDDLE: Well, it has to be grown on
6 land that qualifies for --

7 MR. KING: I understand that.

8 MR. RIDDLE: -- organic.

9 MR. KING: I understand that, but I'm just
10 throwing that out as --

11 MR. BANDELE: Well, to my way of thinking
12 you could not rotate transitional and organic in the
13 same field. You couldn't do that. You had to have
14 that in your organic field

15 MR. LOCKERETZ: I understand that.

16 MR. WELSH: Under what law or what
17 enforcement are we going to -- there's no law to
18 enforce it is my understanding. It's not in the law.

19 Is USDA going to enforce a transition? Who's going
20 to do that?

21 MR. RIDDLE: Well, I think that's a
22 question that, you know, can the organic law -- the

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1 transition is integral to becoming certified organic.

2 You can't become organic without going through a
3 transitional phase, transition period. Do we or does
4 NOP, USDA under that law have the ability to regulate
5 a label claim during that transitional period due
6 to --

7 MR. MATHEWS: My reaction is no. I mean
8 we can present it to the attorneys and get their legal
9 interpretation, but I think the answer you're going to
10 get is that we're only regulating the labeling of
11 organic, and this transitional stuff is something that
12 can be done by the certifying agents as an additional
13 service that is provided to people.

14 And we've already stated from the NOP that
15 you can call it whatever you want as long as you don't
16 use the word "organic" in the description of the
17 product. And this has already been discussed
18 previously.

19 MR. RIDDLE: Yeah. So this could actually
20 be headed towards instead of a rule change or
21 amendment, it could be guidance to certifiers so that
22 there is consistency. That's my worry, because there

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1 are certifiers in states doing it, but there's no
2 consistency.

3 MR. MATHEWS: But, Jim, the thing is that
4 we're not going to be able to be providing that
5 consistency because it's not an area that we can
6 address.

7 CHAIRPERSON BRICKEY: Diane.

8 MS. GOODMAN: Well, that changes my
9 comment, but it doesn't eliminate it entirely because
10 the first part of my comment would have been that this
11 be the qualifier that you put into the recommendation
12 that you've just written that the certifier requires
13 an intention for application, that it's not just an
14 application for the transitional certification, but an
15 intent for organic certification that enables
16 somebody, qualifies them to get a transitional label.

17 That would be the first part.

18 But the second part is I'm wondering if
19 this is even relevant for the Board to be dealing
20 with, if this is something that the program is, in
21 fact, not going to the rest, but the other side of
22 Jim's point, this is another third term here, is that

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1 the law does require three years following these
2 standards to obtain the certification. So that --

3 MR. MATHEWS: It requires three years of
4 no prohibited --

5 MR. BANDELE: Two years of no prohibited
6 and a third year of --

7 MS. GOODMAN: The program then, you don't
8 think that the program then would have any way of
9 clarifying the interpretation of what that three-year
10 period could mean? That would then work with that,
11 but if the program isn't going to consider --

12 MR. MATHEWS: We could help clarify what
13 the three-year period is.

14 MS. GOODMAN: -- I could vote for Jim's
15 proposal. Other this is taking extra time.

16 CHAIRPERSON BRICKEY: Okay. Quickly.

17 PARTICIPANT: Yes. We've already
18 regulated the word "organic." What I'm hearing is an
19 effort to regulate the word "transitional," and I
20 suspect there might be other people in the world that
21 would not appreciate that.

22 CHAIRPERSON BRICKEY: And who are those

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1 people?

2 PARTICIPANT: Pardon me?

3 CHAIRPERSON BRICKEY: Who are those
4 people?

5 PARTICIPANT: I don't know them, but
6 "transitional" is such a general term. Are we going
7 to combine that word and --

8 CHAIRPERSON BRICKEY: Well, I mean,
9 there's at least three ideas that we have on the table
10 here that we're talking about. One thing we need to
11 do is have a little more discussion and get some
12 clarity on those three different ideas, I think.

13 I mean, I think they all have merit, some
14 of which may be concepts that NOP can get involved in,
15 and some of them may not be, but I think we're mixing
16 up all of these different concepts, and that's what's
17 causing us some difficulty and confusion.

18 Kim.

19 MS. BURTON: The reason why the Board is
20 directing that is that there are various stages
21 actually drafting transitional standards.

22 CHAIRPERSON BRICKEY: Right.

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1 MS. BURTON: California, Washington State
2 has their own. OTA is working on standards, and we
3 came to a decision and that's not dropping it as a
4 work plan issue at their last meeting. I think that
5 it's just a word that we still have to grapple with.

6 CHAIRPERSON BRICKEY: But I think we can
7 all agree, or I hope all of us agree, that it's not
8 something to just be dropped off the end of the table
9 and forgotten about.

10 MR. RIDDLE: Yeah, and then we have
11 something to grapple with.

12 CHAIRPERSON BRICKEY: What did you say,
13 Jim?

14 MR. RIDDLE: We have something to grapple
15 with anyway.

16 CHAIRPERSON BRICKEY: All right. Quickly
17 we've got to --

18 MR. LOCKERETZ: There's something I'm very
19 uncomfortable with about this, which is does
20 transitional really mean transitional to organic?
21 You're not allowed to use the old word, or is it a way
22 of saying transitional organic without saying organic?

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1 If so, I think it's not honest because if
2 the consumer sees the word "transition" and doesn't
3 know what it means, that's not good. If the consumer
4 sees it and says, "Oh, I know. That's really
5 transitional organic," then the control of the word
6 "organic" has been lost. In other words --

7 CHAIRPERSON BRICKEY: Your concern is well
8 placed, but as I said, we've got three different
9 concepts here we're throwing around, and we need to
10 get more clarity on each one of those and how we're
11 going to talk about them.

12 MR. LOCKERETZ: Okay. Well, my comment is
13 on the use of the word "transition" without being
14 honest enough to say it's transitional to O.

15 CHAIRPERSON BRICKEY: I understand.

16 (Laughter.)

17 CHAIRPERSON BRICKEY: Let's leave that.

18 All right. My understanding is that you
19 have completed discussion on greenhouse and the last
20 one on transitional; is that correct?

21 So here would be my proposal. In the
22 morning we are scheduled to begin at 8:30 and to move

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1 on the recommendations on aquatic, and I would like us
2 to do that as scheduled because there are probably
3 various people who have an interest in that issue or
4 are expecting us to talk about that at 8:30.

5 I would propose that we begin with that
6 item, complete it, then we move back and complete your
7 items, complete your agenda, Willie, and then move on
8 to materials.

9 MR. BANDELE: Starting at 8:30?

10 CHAIRPERSON BRICKEY: Yes.

11 MR. BANDELE: Or eight o'clock?

12 CHAIRPERSON BRICKEY: Well, no, 8:30
13 because Willie has an agenda for the committee.

14 MS. GOLDBURG: It's also for FACA meeting.
15 We've got to start then.

16 CHAIRPERSON BRICKEY: That's right. Thank
17 you. All right. Anything else from anyone else
18 before we adjourn for the day? Do I have any
19 objection to adjournment? Okay. Then we're going to
20 do it. Thank you.

21 (Whereupon, at 6:04 p.m., the meeting was
22 adjourned, to reconvene Tuesday, October 16, 2001.)

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