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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 12th day of October, 2004  
at 8:00 a.m.

The Washington Marriott Hotel  
1221 22nd Street, NW, Salon E  
Washington, D.C.

TRANSCRIPT OF PROCEEDINGS

10-12-04 NOSB Meeting Participants

Chair: Mark King

NOSB Members: Owusu A. Bandele  
Rosalie L. Koenig  
George Siemon  
Kim M. Dietz  
Kevin O'Rell  
David Carter  
Goldie Caughlan  
Andrea Caroe  
Rebecca J. Goldberg  
Nancy Ostiguy  
Michael P. Lacy  
James A. Riddle

NOP Staff: Richard Mathews  
Arthur Neal  
Barbara Robinson  
Katherine E. Benham

Public Comment: Debra Brister  
George Lockwood

1	Public Comment:	Owen Keane
2		Dave Garforth
3		William Jackson
4		Tom Hutchison
5		Pete Gonzalez
6		Mark Kastel
7		Hubert Karreman
8		Jim Pierce
9		Tony Azevebo
10		Ann Fanatico
11		Joe Smiley
12		Lynn Coody
13		Joe Mendelson
14		Emily Brown-Rosen
15		Brian Baker
16		Michael Sligh
17		John Cleary
18		Susan Ulery
19		David Engle
20		Urvashi Rangan
21		Marty Mesh
22		Bob Buresh
23		Leslie Zook
24		Sebastian Belle

## P R O C E E D I N G S

October 12, 2004

CHAIRPERSON KING: -- opposed, same sign.

Motion carried. Are there any announcements? I'd like it to be noted this is the first meeting that Jim Riddle has not had an announcement. Seriously, we wanted to move into introductions. We can start to my right and move left. Please just give your name and position on the Board.

MS. KOENIG: Rose Koenig, Producer [ph] on the Board.

MR. BANDELE: Owusu Bandele, Producer.

MR. CARTER: Dave Carter, Consumer Rep.

MR. LACY: Mike Lacy, Science Rep.

MS. DIETZ: Kim Dietz, Handler Rep.

CHAIRPERSON KING: Mark King, Retail Representative.

MR. RIDDLE: My mike doesn't come on. I'm going to have to change mikes. Jim Riddle, Certifier Rep from Minnesota.

MR. O'RELL: Kevin O'Rell, Handler Rep.

MS. CAROE: Andrea Caroe, Environmental Rep.

MS. GOLDBURG: Becky Goldberg, Environmental Representative.

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1 MR. SIEMON: George Siemon, Farmer Rep.

2 MS. CAUGHLAN: Goldie Caughlan, Consumers Rep.

3 MR. MATHEWS: Richard Mathews, Associate  
4 Deputy Administrator, for National Organic Program.

5 MR. NEAL: Arthur Neal, National Organic  
6 Program.

7 MS. ROBINSON: Barb Robinson, National Organic  
8 Program.

9 CHAIRPERSON KING: Thank you all very much.  
10 Next, we have approval of the April, 2004, meeting.  
11 That is the meeting that was held in Chicago. Are there  
12 comments or discussion on those?

13 MR. MATHEWS: Yeah, Mark. We just got them, I  
14 think, Friday. I finally did get some time to go  
15 through then and do have four changes I would like to  
16 propose. So those are in Tab 2 of our meeting book, and  
17 of the -- on page two, second paragraph down at the end  
18 there where it says Nancy Ostiguy -- we agreed to step  
19 in and take over where Mr. Holbrook [ph] left off with  
20 crops. I just wanted to clarify that meant crops  
21 committee and sharing crops committee. And page nine,  
22 Compost Tea Task Force report, second paragraph and  
23 referenced in the second sentence says "after the  
24 initial Compost Tea Task Force, well, that was the  
25 Compost Task Force. The first task force was just

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1 Compost Task Force, so I just wanted to strike the word  
2 Tea there, so it's -- so it's correct and -- Jim, yes?

3 MR. RIDDLE: Would you also scratch "initial"?

4 MR. MATHEWS: Sure, yeah.

5 CHAIRPERSON KING: So it will read Compost  
6 Task Force.

7 MR. MATHEWS: Yeah, after "the Compost Task  
8 Force presented its findings." Okay. And then page 10  
9 -- on this one, third paragraph down, it's accurate that  
10 Barbara presented information about two petitions to  
11 remove substances, but it was in our discussion that it  
12 was determined that the one on corn starch never did go  
13 to the Full Board, so I don't have exactly the language  
14 to correct that, but the Board did not take action on a  
15 petition to remove corn starch and -- so I guess --  
16 yeah.

17 CHAIRPERSON KING: I was just going to say if  
18 you want to go ahead and go on and if we need to craft  
19 some language on that, I think is what you're saying.

20 MR. MATHEWS: Right. Yeah, it's really --  
21 yeah. My lights aren't working, either. The -- maybe  
22 what we should do is change it from "Board" to "the  
23 committee."

24 MS. DIETZ: Yeah, I believe it was the  
25 Handling Committee, that you took that through the

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1 Handling Committee.

2 MR. MATHEWS: Uh-huh.

3 MS. DIETZ: We can go back and look at the  
4 minutes, but I think it was a Handling Committee  
5 recommendation.

6 MR. RIDDLE: I have no problem with changing  
7 it to Handling Committee. It would still be the same  
8 result.

9 MR. MATHEWS: Yeah, I think that would be  
10 accurate, then. So really just changing where it says  
11 "the Board" after that dash, yeah, "the Handling  
12 Committee considered that and rejected it." Good. And  
13 the last one is page 14 at the very bottom of the page,  
14 last paragraph, "Mr. Carter felt that it was important  
15 for him to make some sort of statement before they left  
16 Chicago." I believe it was, "Mr. Carter felt that it  
17 was important for the Board to make some sort of  
18 statement before they left Chicago," so if we can just  
19 change "him" to "the Board." Would that be accurate,  
20 Dave?

21 MR. CARTER: Yes, yes.

22 MR. MATTHEW: Okay.

23 MS. CAUGHLAN: Board or the Policy Committee?  
24 Because we didn't have a Board recommendation. I think  
25 that's --

1           MR. CARTER: No, the actual comment, though,  
2 was that it -- we thought it was important for the Board  
3 to make a statement before we left the Chicago meeting.

4           MR. MATHEWS: Okay. Okay, so those are the  
5 changes I propose and I would move that we accept the  
6 minutes with those four changes.

7           CHAIRPERSON KING: Is there a second?

8           MS. CAUGHLAN: Second.

9           MR. MATHEWS: Are there any other changes?

10          CHAIRPERSON KING: Are there any other  
11 proposed changes or discussion? Okay, it's been moved  
12 and seconded. Do we approve the April, 2004 meeting  
13 minutes as amended? All those in favor signify with  
14 saying aye.

15          BOARD MEMBERS: Aye.

16          CHAIRPERSON KING: Opposed, same sign. Motion  
17 carries. Next, we have a review of Executive Committee  
18 Conference Call minutes. I believe all, with the  
19 exception of September, have now been posted on the web  
20 site?

21          MS. DIETZ: Yeah, we have June, July and  
22 August minutes.

23          CHAIRPERSON KING: Okay.

24          MS. DIETZ: Which changes have gone through  
25 after each call, so I'm not sure if anybody has any

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1 changes to those or not.

2 MR. RIDDLE: Yeah, the August ones are still  
3 draft and have not been accepted by the -- or approved  
4 by the -- but they are posted for review.

5 CHAIRPERSON KING: So we need to recognize  
6 June and July.

7 MR. RIDDLE: Well no, we did -- we just --

8 CHAIRPERSON KING: It's just there for  
9 reference.

10 MR. RIDDLE: Right.

11 CHAIRPERSON KING: Okay. Okay, next up we  
12 have NOP discussion with NOSB and we have several topics  
13 listed here on the agenda. I'll just go in order as  
14 they are listed and we, of course, can talk about some  
15 other items, too, but the first item we have up is just  
16 kind of the status of previously recommended materials.  
17 I know there's been a lot of hard work in that area and  
18 there have been some challenging issues as we all learn  
19 how to use annotations and where to place things on the  
20 National List, so our goal here is just to have kind of  
21 a sharing of information and discussion with NOP on some  
22 of these issues and so we'll give you a chance to give  
23 us a quick update on those, Rick or Barbara.

24 MS. ROBINSON: I'm just going to handle  
25 materials.

1                   CHAIRPERSON KING: Okay. Good morning,  
2 Barbara.

3                   MS. ROBINSON: Good morning.

4                   MR. NEAL: Good morning, Arthur Neal. Update  
5 on the status of recommended materials. In regards to  
6 the processing materials that have been recommended by  
7 the National Organic Standards Board, those materials  
8 and recommendations have been placed in a docket. That  
9 docket is right now in the Office of General Counsel for  
10 review. We are anticipating a turnaround from them. As  
11 soon as we get their response or their comments on that  
12 docket, we will be able to know whether or not we're  
13 going to be able to either go straight to the Federal  
14 Register or if we're going to have to make some more  
15 changes. We're hoping that we have to make no more  
16 changes to the docket. We've made all the changes thus  
17 far that they've suggested and we're awaiting their  
18 response on that particular docket.

19                   In response to livestock materials that have  
20 been recommended by the National Organic Standards  
21 Board, we have been in a very lengthy process,  
22 consultation process with FDA concerning those  
23 recommendations. Out of the materials that were  
24 recommended by the National Organic Standards Board,  
25 we're having a problem with six in particular and those

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1 six are the six that are -- you can find sold over-the-  
2 counter medications, in particular. We got them -- they  
3 are calcium borogluconate, calcium propionate,  
4 activated charcoal, kaolin pectin, mineral oil,  
5 potassium sorbate. What we found out about these  
6 particular materials is that they have not been approved  
7 through FDA's new animal drug application process nor  
8 its new drug application for human foods, either. They  
9 have gone -- they have been reviewed through an over-  
10 the-counter review, which is much different than  
11 prescribed medications, the type of review that they go  
12 through.

13 These particular drugs, well, four out of the  
14 six of these drugs are marketed under monographs, which  
15 is a process that FDA had implemented historically and  
16 it serves as sort of like a recipe in terms of how you  
17 are to manufacture this particular drug, but it has not  
18 been formally approved for use in animals. So we've  
19 gone through this consultation process and it seems to  
20 be these six materials are going to be problematic in  
21 terms of being included in the docket in terms of a  
22 positive listing on the National List. So what we're  
23 going to do is move forward with the ones that we have,  
24 that we can list on a national list and not hold this up  
25 any longer. And I think those are all of the materials

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1 that have been recommended by the National Organics  
2 Standard Board. If you guys got any questions, you can  
3 raise those now.

4 CHAIRPERSON KING: Kevin.

5 MR. O'RELL: Arthur, is that for the Handling  
6 Committee materials, is that the materials that were  
7 considered as food contact substances, as well?

8 MR. NEAL: No, the food contact substances  
9 docket, which is what I'm calling the processing docket,  
10 is at OGC. It has been completed and we're just waiting  
11 for them to give us the okay to move for it in the  
12 Federal Register.

13 CHAIRPERSON KING: Andrea.

14 MS. CAROE: Do you have an estimated time line  
15 on those -- that processing docket? I mean, I know it's  
16 in OGC's hands, but do you have any idea of how long  
17 that's going to take?

18 MR. NEAL: I don't have a specific time line.  
19 I know that they're receiving some pressure to go ahead  
20 and get that back to us ASAP.

21 MS. ROBINSON: When did we give it to them?

22 MR. NEAL: We gave that to them two months  
23 ago.

24 MS. ROBINSON: We will make it a point to  
25 check with OGC and ask them about their clearance,

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1 estimated clearance time.

2 MR. MATHEWS: The thing that we're concerned  
3 about is that this actually the second time it has gone.  
4 The first time they sent it back because there wasn't  
5 enough description as to what it was the Board was  
6 trying to achieve in the docket itself, in the preamble  
7 language. We hope that we have captured the essence of  
8 what it was the Board was trying to achieve in approving  
9 the materials and then put it into the dockets. And for  
10 your information, this is something we're going to have  
11 to do with all materials. In other words, the bottom  
12 line is the bar has been raised on us for getting things  
13 into the National List and so we have to be much more  
14 specific in what it is we're trying to accomplish and  
15 that's we've wrestled with for this docket. It's also  
16 what you're going to be wrestling with in the future in  
17 order to satisfy us because we have to set aside the  
18 attorneys.

19 MS. ROBINSON: And I will say that we were --  
20 we weren't expecting that kind of reaction from OGC, so  
21 it did take us aback a little bit because it's probably  
22 the first time that they've sent a materials docket back  
23 asking for the kind of detail that they were asking for,  
24 so we just didn't expect it and so that's what's really  
25 caused the delay on our part.

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1                   CHAIRPERSON KING: Kim.

2                   MS. DIETZ: Most of those materials were ones  
3 that have been in the pipeline for quite some time, so I  
4 would assume that now that we've got this new material  
5 review process and we've got the compatibility dockets  
6 and we're going through those, the criteria that that  
7 should help the process, correct?

8                   MR. MATHEWS: Immensely.

9                   MS. ROBINSON: It will help, yes. The key  
10 will be to be as detailed as possible. We also hope  
11 that -- and we'll talk about this later, of course, that  
12 with the more detailed requirements that we'll be  
13 expecting from TAP reviewers. We hope that that'll help  
14 quite a bit, too, so -- and the new petition procedures,  
15 so we do expect that this will be smoother. We have  
16 alerted OGC to the fact that, you know, Sunset will also  
17 be coming and so we're all going to try and do whatever  
18 it takes to make this run a little more smoothly. As I  
19 said, we were taken aback because this is the first time  
20 they've ever come back to us with these kinds of  
21 questions, so -- but we do expect that the new  
22 procedures we're putting in place will prevent this kind  
23 of delay, at least when it gets to the lawyers, in the  
24 future.

25                   CHAIRPERSON KING: Jim.

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1                   MR. RIDDLE: Yeah, a comment and a question  
2 and I just want to say that, you know, when you do get  
3 those kind of questions from OGC about what was the  
4 Board's intent, they need clarification, you know, feel  
5 free to communicate that to the Board and --

6                   MS. ROBINSON: As we will.

7                   MR. RIDDLE: -- you know, let us --

8                   MS. ROBINSON: Without a doubt, Jim.

9                   MR. RIDDLE: -- help sort that out.

10                  MS. ROBINSON: Right.

11                  MR. RIDDLE: I'm sure we're willing to pitch  
12 in to get that clarified and help move them forward. On  
13 the livestock materials, I just want to make I  
14 understand this, that those six, or at least five of  
15 six, the potassium sorbate, I think, is a little  
16 different issue; it's not a direct medication, but the  
17 others are over-the-counter medications, correct?  
18 That's how FDA kind of regulates them or classifies  
19 them, so any livestock producer can use them and they  
20 don't object or -- that's why I need to understand.

21                  MR. NEAL: FDA has looked at our request. Our  
22 request was very specific to accommodate the request of  
23 the Board, the recommendations of the Board. Based on  
24 their review, the use of those substances as a livestock  
25 medication do not meet FDA's regulations because they

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1 are not FDA-approved drugs, animal drugs, that is. And  
2 as a result of our consultations, what we're finding out  
3 is more of an enforcement issue for FDA, just as it is  
4 for us, materials that are used in organic agriculture  
5 have to be on our National List. We have to enforce  
6 that all materials that are used are on the National  
7 List, the same with FDA. Materials that they have  
8 approved for use in animals have to be recognized as  
9 such. We could not find these in the FDA regulations  
10 anywhere as approved for use in animals.

11 MR. RIDDLE: Yeah --

12 MS. ROBINSON: Let me -- okay.

13 MR. RIDDLE: Okay.

14 MS. ROBINSON: Let me try and explain  
15 something here that -- and we've had this discussion  
16 before about the difference between FDA's regulatory  
17 process and -- excuse me -- and our regulatory process.  
18 USDA's regulatory process tends to be a proactive --  
19 let's take the case of the organic standards. We set up  
20 the standards and then we say if you can meet these  
21 standards, you can use this label. FDA -- the best way  
22 to explain their regulatory process is it's almost a  
23 mirror image of the way we regulate. What they do, in  
24 fact, is allow certain labels to be used on products and  
25 you know, pet food's a classic example, where they say

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1 they reserve the right to enter the market place and  
2 then regulate against the use of something for health or  
3 safety reasons. In the case of these livestock  
4 medications, I will say, too, that we -- Arthur spent an  
5 -- a huge amount of time going back and forth with FDA  
6 even asking all right, how about if we put them on the  
7 list with the annotation that they can be used when  
8 prescribed by a licensed veterinarian and they said no  
9 to that, as well. The problem that we're facing is that  
10 since they have no drug approvals -- and to get a drug  
11 approval, you understand what that would take, right?

12 MR. RIDDLE: Um-hum.

13 MS. ROBINSON: The company would have to do  
14 drug trials and submit that to the FDA for approval.  
15 Now, you're asking the manufacturer of Pepto-Bismol to  
16 invest in the research -- I'm not saying it's not  
17 legitimate, but from the company's perspective, I think  
18 this is what's happening, is why go to all the trouble  
19 to do the drug trials to demonstrate that Pepto-Bismol  
20 is safe for use in livestock; there's no return for the  
21 company to do that, hence they don't submit the drug  
22 trial research to FDA, so FDA will not grant it an  
23 approval status.

24 If we put it on our list, in effect, we have  
25 codified what FDA refuses to codify and since we -- if

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1 we do that, they will take action against us. I mean,  
2 we will have then attempted to one-up them by putting  
3 something in the Federal Register -- even though this  
4 industry would look at it as something just for you and  
5 FDA is well aware that these medications are used by  
6 livestock producers everywhere, but they're not going to  
7 allow them to be published in a Federal Register that to  
8 the world is a -- says the government has sanctioned the  
9 use of these materials.

10 What does it mean? It means -- my assumption  
11 is that there are, unfortunately for livestock  
12 producers, there are prescription medications that will  
13 accomplish the same purpose. My assumption is that this  
14 means that livestock producers will pay a higher price  
15 to obtain prescribed medications to accomplish the same  
16 purpose that these over-the-counter medications would  
17 accomplish and so they will have to incur the costs.  
18 The only other alternative that I can think of is  
19 petitioning the manufacturers to submit the drug trials  
20 to FDA to obtain the approval status by FDA for use in  
21 livestock production.

22 Now, I don't think this is anything  
23 specifically peculiar to organic. It is -- because FDA  
24 does not -- that's not their response to us. It's  
25 livestock production, period, not organic. And we know

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1           that they're used by conventional producers, as well.

2                       MR. RIDDLE: Well, I appreciate the  
3 predicament and I think I understand and I really  
4 appreciate the work that you all have put in, especially  
5 Arthur, trying to move these forward. I mean, it just  
6 -- to me, these are the most benign of the medications  
7 that we reviewed and I look at the, you know, comparable  
8 things that are on the list like aspirin. It falls in  
9 the same category, right? It's something where they're  
10 allowing any livestock, conventional, whatever to buy  
11 large boluses of aspirin to reduce pain and that's not  
12 an FDA-registered drug.

13                      So I just, you know, I understand that they're  
14 kind of turning a blind eye on these things. They know  
15 that livestock producer -- I can go into any farm supply  
16 store and buy these products and you know, there doesn't  
17 have to be a veterinary prescription or anything like  
18 that and as I recall, the presentation we heard a year  
19 ago from FDA, they were telling us at that time it was  
20 kind of a green light, but it sounds like things have  
21 changed as it got more kind of down to the nuts and  
22 bolts of putting them on our list and I understand that  
23 putting them on our list would be an official, federal  
24 registration, per se, of something that they haven't  
25 registered. I -- but you know, we -- certifiers

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1       certainly can't be put in a predicament of turning a  
2       blind eye.

3               That's not something that we want to  
4       encourage, but at the same time, it's just -- there's  
5       got to be some common sense here and how can we move  
6       these forward? I heard two options, I think, either use  
7       the high-priced veterinary drugs -- and some of them  
8       don't achieve the same results as some of these -- or  
9       try and get the manufacturers of these benign substances  
10      to go through the expense and years of registration.  
11      Neither of those seem very satisfactory. I just -- I'm  
12      not ready to give up on it yet and I -- I hope we can  
13      find a way to move them forward so they can be  
14      officially used by organic livestock producers because  
15      they are used by conventional producers.

16              MR. MATHEWS: I fully understand your  
17      frustration, Jim, and we have tried to turn this thing  
18      every which way. Arthur has put in a lot of time,  
19      talked to many people at FDA. He is presented numerous  
20      options and we're as frustrated as you are that we can't  
21      get them there, but I guess it just comes to the fact  
22      that the statute and the regulations say that if a  
23      synthetic is going to be used, it has to be on the  
24      National List. The FDA doesn't recognize the use that  
25      the Board has recommended as being acceptable,

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1       therefore, we can't put it on the list and if it's not  
2       on the list, the producer can't use it.

3               So while we all recognize that it's probably  
4       perfectly acceptable, but even there we have to  
5       recognize that it's the people sitting here and  
6       throughout the world who would really render an opinion  
7       as to whether or not these materials are even acceptable  
8       to them, so -- I mean, we would still have to go through  
9       the rule-making process and there's no guarantee that  
10      they would even have made the list going through the  
11      rule-making process. I think Barbara's right. The only  
12      way is for those who have an interest in getting these  
13      materials onto our National List to approach the FDA to  
14      get a recognition that they can be used in livestock and  
15      until that is accomplished, we're kind of caught between  
16      a rock and a hard place for achieving that fully.

17             CHAIRPERSON KING: Rose and then Dave.

18             MS. KOENIG: Again, this would be -- you'd  
19      have to re-review the materials, but could we put them  
20      under the off-the-category of production aids and have a  
21      preventative kind of annotation so that it would be  
22      alluded to in terms of the annotation but in terms of  
23      preventative health rather than a specific prescribed  
24      use? And would that be considered by FDA to not fringe  
25      upon their area of regulation?

1                   MR. NEAL: I'm not quite sure, Rose. I  
2 understand where you're going. We've thought about it  
3 already. Can we put this substance on a national list  
4 without it having any type of connotation or reference  
5 to livestock?

6                   MS. KOENIG: Well livestock, yes, because it  
7 would go under the livestock list, but --

8                   MR. NEAL: But that --

9                   MS. KOENIG: But medicine is the question,  
10 huh?

11                   MR. NEAL: But that's the issue, though.

12                   MS. ROBINSON: No, you don't want to go under  
13 livestock.

14                   MR. NEAL: That's the issue, because how else  
15 would you use kaolin pectin under livestock even without  
16 an annotation? FDA has actually looked at these  
17 materials for us and attempting to see, you know, how  
18 could these things fit for -- and make it work for us.  
19 Matter of fact, one guy who we spoke with actually  
20 worked with alternative medicines and he says based on  
21 FDA regulations, there's just no way we can list them on  
22 our list as -- for use in livestock without them having  
23 some type of approval because the normal use for these  
24 substances would be for use as a livestock medication.

25                   MS. ROBINSON: Let me ask you a --

1 MS. KOENIG: I had one other question, too,  
2 before -- I know for -- there's a thing in the -- at  
3 least for pesticide labeling, IR-4 looks at minor uses  
4 of pesticides on crops that typically wouldn't be  
5 labeled for and there's a process by which you can get  
6 minor uses in addition to labels and it's to address  
7 these very problems because companies won't make that  
8 investment into minor crops. Is there an analogous  
9 program in FDA similar to IR-4 in --

10 MR. NEAL: I'm not sure.

11 MS. KOENIG: Okay. Because that -- there may  
12 be -- I don't know, but that's how they do it with  
13 pesticides when you have minor use categories for crops.

14 MS. ROBINSON: Can I -- let me pose a  
15 question. It's really to my staff, but one thing I  
16 don't know -- and there's risks with this, but Rose, you  
17 mentioned -- Arthur, you mentioned alternative medicines  
18 and I'm just wondering sort of aloud -- we can't settle  
19 this here today, obviously, but maybe we need to think  
20 about if there's a way that we could create a category  
21 in the list that is alternative -- that the actual  
22 category is alternative medicines that -- then you don't  
23 list on the list kaolin pectate [ph]. Now the risk, of  
24 course, is that somehow -- I mean, you don't want people  
25 out there using stuff that you don't know about or that

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1 you wouldn't approve, but I'm just wondering if there  
2 are some -- if there's some other way that we could --  
3 we want to do this legitimately and we want to do it  
4 through rule-making, but if there's a way that we could  
5 introduce a category that allows some of these things to  
6 be used; they're not specifically listed with an  
7 annotation, they are -- the -- what you would see in the  
8 Register is a category of alternative medicines.

9 MR. NEAL: The way that many of these  
10 substances will be listed will be without annotation.  
11 FDA has already looked at that. The one option that I  
12 would place forth would be not close the door on those  
13 six materials, but we need to move forward with the  
14 other ones that are already given the okay by FDA and  
15 continue, maybe, to work with FDA in terms of their  
16 placement on our National List, looking at other methods  
17 of listing them, working with the Board on that issue  
18 may be one way to explore. But I guess to sum it all  
19 up, we're planning to move forward with the recommended  
20 materials that are already blessed by FDA to be listed  
21 on our national list. Those six are the ones that we're  
22 having problems with, so we're going to move forward  
23 with those and we can work with the Board in terms of  
24 maybe developing some type of way to list them on a  
25 national list with agreement from FDA.

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1                   CHAIRPERSON KING:   Okay, I had Dave and then  
2                   Andrea.

3                   MR. CARTER:   Well, mine was similar to Rose's  
4                   thoughts in that I know for example, in the bison  
5                   industry, there's nothing that's really been tested or  
6                   approved.   Everything's off-label use, which you're  
7                   allowed to do to save the life or health of an animal  
8                   and if there couldn't be some sort of a parallel  
9                   strategy.

10                  MR. NEAL:   Dave, that's actually the approach  
11                  that we took.   That's the exact approach that we took.  
12                  Only problem with our approach is we've got to  
13                  federalize everything.   We've got to codify it.   Bison  
14                  industry does not have to codify; we do.   So you know,  
15                  that option has been explored, it has actually been the  
16                  one that has been chosen; we've just got to work on how  
17                  do we get these six resolved.

18                  CHAIRPERSON KING:   Andrea.

19                  MS. CAROE:   Is there a possibility of allowing  
20                  over-the-counter drugs as a general category unless  
21                  prohibited and create a negative list of over-the-  
22                  counter drugs that are prohibited for organic use?

23                  MR. NEAL:   I think that may be an option we  
24                  can talk about as we negotiate on these six materials,  
25                  so my recommendation would be to write that down for us

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1 and let's discuss that throughout the course of the  
2 meeting.

3 MR. MATHEWS: The one comment on that; if you  
4 -- it sounds to me, Andrea, that what you're saying is  
5 that you would create a line item within the livestock  
6 provision, 603, that all synthetics that are over-the-  
7 counter medications would be allowed unless you  
8 prohibited them and I think that's really a  
9 determination the Board's going to have to make because  
10 there's going to be a whole lot of stuff there and the  
11 question is will the public agree with such a  
12 determination for all over-the-counter medications?

13 MR. NEAL: Also, like I said, these are over-  
14 the-counter medications, four out of the six, and FDA  
15 told us no to these, so we would still have an uphill  
16 battle in terms of FDA granting us that permission.

17 CHAIRPERSON KING: George, do you have a  
18 question?

19 MR. SIEMON: Yeah. So going to the question  
20 you are bringing up, there -- I want to just repeat  
21 about just a title like Production Aids. If you left  
22 the word livestock off, then how would -- what would the  
23 answer from FDA be? If you left off the word livestock,  
24 just Production Aid?

25 MR. NEAL: Don't know, George. That's an

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1 option that we can definitely explore. But it's going  
2 to have to be in context with the entire National List.

3 MR. SIEMON: Yeah. And you -- it was said  
4 that we have to rely on prescriptions now and I'm a  
5 little confused about that. You're talking about new  
6 drugs into the process, materials that -- approving new  
7 materials that would be alternatives to these  
8 alternatives and -- because they have to be on the  
9 National List in order to be used, these prescribed  
10 drugs, and they're not on the list now, so we're talking  
11 about another two or three years out there and as a  
12 farmer rep, you know, this is obviously a big issue.

13 MR. MATHEWS: That's precisely the issue, that  
14 the fact that these can't be used, what Arthur was  
15 saying is that you would have to find something that FDA  
16 or -- yeah, that FDA recognizes as allowable to achieve  
17 the same purpose that you were trying to achieve and if  
18 that isn't already on the National List, George, you're  
19 correct. It would have to petitioned and then approved  
20 by the Board, then it would have to go through the rule-  
21 making process to find out what the public would say  
22 about it and then it may end up on the National List.

23 MR. SIEMON: And in the course that the real  
24 obvious thing is this should threaten a whole lot of  
25 materials that are already on the list. And what is

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1       there -- we already have done this and what's their  
2       response to that and what's going to be the result of  
3       that?

4               MR. MATHEWS:   Are you -- what do you mean it  
5       threatens materials on the list?

6               MR. SIEMON:   Well, there's some materials in  
7       here already that would have -- would follow along the  
8       same way.

9               MR. MATHEWS:   We haven't researched that to  
10       see if that is true.  If it is true, then it clearly was  
11       an oversight by all the reviewers prior to creating this  
12       thing as a final rule, which -- including the FDA,  
13       because everybody had a crack at it, so the particular  
14       reviewer for FDA looked at it, may have missed it.

15              MR. SIEMON:   Um-hum.

16              MR. MATHEWS:   That then may mean, if what  
17       you're saying is true, then it could be a problem come  
18       2007 when the material sunsets.  That, however, is a  
19       hypothesis right now.  We'd have to look and see what  
20       the true status is of those materials.

21              MR. SIEMON:   Um-hum.  So you know, this is  
22       just a long-standing thing with the alternative  
23       medicine, the FDA problem, so to me, you know -- and  
24       when some of the other guidance documents that came out  
25       there, it came out about developing a better

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1 relationship, the FDA memorandum understanding, because  
2 this is not going to go away. Basically, this is -- all  
3 the alternatives that we've built this industry on in  
4 the long, long run if you were to go all the way down  
5 this line. So what's being done -- I mean, I heard a  
6 little defeatness [ph] in you all's presentation, which  
7 I know, it's frustrating, but what's being done to  
8 develop a real bigger, broader memorandum of  
9 understanding with the FDA and the USDA so that we don't  
10 fight little battles everyone along the way and we get  
11 to some bigger understanding here?

12 MR. NEAL: Well, this has been the first time  
13 that this has been identified, so at this junction,  
14 nothing has been done because we're just finding out  
15 that this is a problem.

16 MR. SIEMON: Um-hum.

17 MR. NEAL: So now we have to work towards  
18 finding out how do we make -- what the objective is for  
19 the National Organic program merging and having some  
20 synergy with what FDA is doing in terms of enforcing the  
21 use of animal drugs.

22 MR. MATHEWS: But Barbara, isn't that going to  
23 take some real ladder-climbing to get some kind of  
24 relationship between USDA and the FDA on this subject?  
25 I know it's -- there's tension always, anyway,

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1 relatively. I kind of take exception to a word that  
2 Arthur used that nothing has been done and I guess, from  
3 the angle that he was discussing that's true, but in  
4 reality a lot has been done. I sent Arthur to FDA to  
5 work for FDA for 60 days. That has helped us to  
6 understand how FDA operates. It has created contacts  
7 for us in FDA.

8 Arthur, during that 60-day period, learned a  
9 lot and made a lot of good contacts and it's these  
10 contacts that have been enabling us to explore the  
11 various avenues for solving the problems with these six  
12 materials. It's not so much that you create an MOU  
13 between a sister agency and yourself in order to  
14 communicate. What we have done, and I can't emphasize  
15 this enough, is that we have sent somebody to FDA to  
16 work for two months; actually, it was more like three  
17 months because it was 60 work days and not calendar  
18 days. So -- I mean, we have made the in-roads. They  
19 know who we are, they know what we're doing. We have  
20 learned who can help us and who can't and so we've  
21 already done that outreach to FDA. The problem is that  
22 the answers that we want, we just can't get, okay?  
23 We've made tremendous progress on all the other  
24 materials that you wanted, it's just these six we have  
25 just been unable to make it work. But there is a great

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1 working relationship between FDA and the NOP.

2 MS. ROBINSON: Let me just follow up. George,  
3 you're correct. There needs to be a policy discussion  
4 and it really needs to take place above my level; it  
5 needs to take place with the administrator of FDA, the  
6 Commissioner or you know, one of the deputy  
7 commissioners and probably best -- at a minimum, the  
8 administrator of AMS, but more appropriately, I'd like  
9 to see it happen at the Under Secretary or the Secretary  
10 level. So you know, we're going to have to basically do  
11 some decision memo, briefing memo, explain the  
12 catastrophe that will be the outcome unless there is  
13 some fairly high-level policy discussion that takes  
14 place between FDA and USDA to figure out -- I mean,  
15 there's got to be a way to figure this out. There's got  
16 to be a way to come to something, the works, you know.

17 MR. SIEMON: Um-hum. First of all, I'm going  
18 to acknowledge -- I'm sure Arthur's laid the foundation  
19 for this development. That's probably the best step in  
20 the first place, to get in and see what the issues are.  
21 So would it be helpful, then, if we sent some directive  
22 this way to develop such a thing in the long run? Is  
23 that going to be -- help you get the attention of the  
24 people above you, Barbara?

25 MS. ROBINSON: It would never hurt.

1 MR. SIEMON: Okay.

2 MS. ROBINSON: We always welcome your  
3 communications and that will help us actually write the  
4 briefing memo, the info memo, whatever it is we need to  
5 do to go through channels to get the right folks sitting  
6 down at a table.

7 CHAIRPERSON KING: And so -- just -- I had a  
8 quick question, then Becky, then Jim. So concerning our  
9 discussion later today on the materials process, I mean,  
10 do you see this as something we can include in that in  
11 terms of trying to forward a recommendation from the  
12 Board that would help you --

13 MS. ROBINSON: Surely.

14 CHAIRPERSON KING: -- with your ongoing  
15 relations with other agencies and that sort?

16 MS. ROBINSON: Yeah.

17 CHAIRPERSON KING: Okay. Becky.

18 MS. CAROE: I just want to make two quick  
19 points. One was that I was intrigued by Andrea's  
20 proposal about -- allowing all over-the-counter drugs in  
21 organic agriculture, but I think it's an innovative idea  
22 but I wanted to point out that there are many  
23 antibiotics in our stats that are allowed over the  
24 counter and so we may create some more problems for  
25 ourselves if we take that route. Secondly, a suggestion

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1 -- I don't think it's a panacea, but Congress has passed  
2 something called the Minor Use, Minor Species Bill which  
3 was signed by the president and it creates some  
4 expedited review procedures for certain types of drugs  
5 used in animal production and it might be worth pursuing  
6 with FDA getting organic agriculture considered a minor  
7 use. It might, at least in some cases, provide some  
8 avenues for drug indexing and drug approvals that are  
9 helpful to us.

10 CHAIRPERSON KING: Thanks. Jim.

11 MR. RIDDLE: And I just wanted to come back to  
12 a comment, I think, Barbara said about the impact on the  
13 sunset review because I'm looking at the 603 list and  
14 besides aspirin, I see glucose, electrolytes, hydrogen  
15 peroxide, magnesium sulphate and a number of similar-  
16 type products that are on our list and yeah, maybe it  
17 was an oversight by past Boards or past reviewers or FDA  
18 when they reviewed, but nobody caught it and I think  
19 maybe common sense ruled the day then and now it's  
20 gotten a little lost and now it's more kind of a  
21 regulatory mindset and I understand that evolution. But  
22 I think that this really does need to be a priority  
23 because if we can ironed out before we face the  
24 sunset, then we're not going to have that additional  
25 fear hanging over us that some of these benign

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1 substances that we want to encourage the use of, not  
2 discourage the use of, would disappear because of a  
3 technicality.

4 MR. MATHEWS: I would caution the Board about  
5 assuming that hydrogen peroxide, glucose, aspirin would  
6 not have been allowed, okay, if people had taken a  
7 closer look because there are substance that you've  
8 recommended that I think would still probably fit into  
9 the same category that are going to make it. So I'm not  
10 -- I guess what I'm saying is don't automatically assume  
11 that materials that are on the National List now are on  
12 a par with those six that we're saying that we can't get  
13 on, okay, because we don't know that. We haven't taken  
14 and looked at them specifically to determine whether or  
15 not there is a current problem with the National List,  
16 okay? So I wouldn't make the assumption that we've  
17 got --

18 MS. ROBINSON: Don't hit the panic button yet.

19 MR. MATHEWS: Yeah, don't -- yeah, don't hit  
20 the panic button yet. I mean, they may be perfectly  
21 okay. Just because you think they fit into the same  
22 category --

23 MR. NEAL: Right.

24 MR. MATHEWS: -- doesn't mean that they're not  
25 allowed, okay?

1                   MR. NEAL: What Rick is saying --  
2                   Pepto-Bismol's an over-the-counter medication, but it's  
3                   also approved as a medication through the new drug  
4                   application process. So just because it's an over-the-  
5                   drug -- over-the-counter medication does not mean that  
6                   it's not approved as a drug.

7                   MS. ROBINSON: You lost me on that one.

8                   MR. MATHEWS: I think you lost me on that one,  
9                   too. I -- but let's not try and beat this horse any  
10                  longer. It's already on the ground. The bottom line is  
11                  don't assume, please, that you've got a problem with the  
12                  list because you've got a problem with these six  
13                  materials. We welcome, Jim -- if you would, or the  
14                  Board, would like to identify materials that you have  
15                  questions on that we could then present the question to  
16                  FDA. We can do that and we probably should in light of  
17                  the sunset provisions.

18                  MR. SIEMON: Sounds like don't ask --  
19                  [Simultaneous comments]

20                  CHAIRPERSON KING: I think we got enough right  
21                  now, Rick.

22                  MR. MATHEWS: All right. Well then, stop  
23                  sweating it.

24                  CHAIRPERSON KING: Okay. Yeah, Rose.

25                  MS. KOENIG: I would like a -- I don't if we

1 can make a motion, but I would like to -- because I'd  
2 like to get it down; there's two action items that I  
3 think, from the conversation as far as what we can do.  
4 I think we also, in -- at -- you know, in unison with  
5 the NOP should look at what Becky mentioned as far as  
6 legislation and again, I stress the I-R4 program because  
7 I think it's another example within the federal  
8 government where minor uses are allowed.

9 CHAIRPERSON KING: Um-hum.

10 MS. KOENIG: And someone needs to take that on  
11 as a task because if we can at least come up and do some  
12 of that research, also, I think those are the, kind of  
13 the pathways to showing models where such systems exist.

14 CHAIRPERSON KING: Would that someone be the  
15 Materials Chair? No, but seriously I mean, we need --  
16 and livestock involved, too, so --

17 MS. KOENIG: Okay.

18 CHAIRPERSON KING: As well as Handling, so I  
19 don't I know how you want to approach this, but I think  
20 it's a good idea. I did make note of both the I-R4 and  
21 the Minor Use, Minor Species Act, I think you called it,  
22 Becky. So is there further discussion on an action plan  
23 real quick while we're on the topic? Go ahead, Jim.

24 MR. RIDDLE: Yeah. Just the MOU, the whole  
25 resolution or some kind of recommendation from the Board

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1 that this is a priority and to try and help support the  
2 need for moving this forward, you know, at whatever  
3 higher level. I think that was another thing that was  
4 discussed.

5 CHAIRPERSON KING: Um-hum.

6 MR. RIDDLE: And so maybe if these could be  
7 kind of made note of by Livestock Committee for a work  
8 plan.

9 MR. SIEMON: Isn't that a policy committee  
10 because it goes to the bigger -- the pet food and I mean  
11 a lot of different issues there. Isn't that -- and is  
12 there any way we can get that done this meeting?

13 CHAIRPERSON KING: I think the resolution or a  
14 recommendation just reinforcing the need to move these  
15 to whatever level it takes to get resolution is  
16 something we could draft in, you know, have 24 hours to  
17 consider and get it put forward at this meeting.

18 MS. ROBINSON: Can I make a suggestion? I've  
19 taken notes on four options that you have listed and  
20 what I would suggest is whomever does it, I would prefer  
21 that the Board take a crack at at least identifying the  
22 options and then we'll work with you to refine it, but  
23 the options are one, would it be possible -- and then  
24 this will give us something to actually sit down and  
25 have a discussion with FDA about. Is there a

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1 possibility that we could create a category called  
2 Alternative Medicines on the National List? And that --  
3 you know, we can develop that option as, you know, under  
4 there there would be guidance specifically from the  
5 Board that would be posted on the web that says here are  
6 the alternative medicines that, you know, blah, blah,  
7 blah, that are -- that the Board recognizes for use.  
8 Let's stay away from the word approval.

9 Second option was proposed by Andrea, the --  
10 sort of the negative over-the-counter drug option. That  
11 one, I think, the one problem -- and sort of look at  
12 pros and cons of each of these. One problem you may  
13 have with that option is OFPA. I just don't know how  
14 that would fit with the language of OFPA.

15 The third option, suppose there is a category  
16 of production aids with no reference to the specific use  
17 of the material and fourth would be to explore, through  
18 EPA's programs or through the recent action by Congress,  
19 that organic could be considered in Minor Use category  
20 and therefore get some relief from the labeling  
21 approvals of regulatory agencies. And if we had those  
22 four options with a -- you know, then we can develop  
23 them, we can go back and forth with you and develop a  
24 talking paper, basically. Then I think, you know, we've  
25 got some things to just sit down and explore with --

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1 first of all, with the senior policy officials at USDA  
2 and that always helps, then, when you want to have a  
3 dialog with another agency. So that's my suggestion.

4 CHAIRPERSON KING: Other comments?

5 MR. SIEMON: Well, if we do do something  
6 around this MOU, I really think we should include NOP in  
7 the drafting so it really serves your purpose if we do  
8 anything about that, so -- so I'm clear -- are we going  
9 to try using -- about this? Jim, you were saying  
10 Livestock Committee; I'm not resistant to doing it, I  
11 just thought it was such an over-arching issue that it  
12 would be better for the Policy Committee to come up with  
13 such a recommendation.

14 CHAIRPERSON KING: Rose.

15 MS. KOENIG: What I hear from what Barbara's  
16 saying, I think that, you know -- again, I'm not going  
17 to second-guess how federal agencies work. I mean, I  
18 think a lot does get done if you can identify key  
19 individuals in agencies and get your work done that way.  
20 Developing an MOU for the long-term would perhaps be a  
21 great long-term plan, but I think to immediately fix the  
22 situation, our time is best spent kind of exploring  
23 these four areas and see where we can get in the short-  
24 term because they're easily researchable and we can  
25 present a working document. You know, if the Policy

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1 Committee or the Livestock Committee wants to look at  
2 long-term, you know, this concept of MOU, I think that's  
3 going to take a considerable amount of time. There may  
4 be some possibilities, I think, but -- you know, it  
5 sounds like you've got contact in the FDA, let's work  
6 with those and identify these four items and get to  
7 work.

8 MS. ROBINSON: I don't -- I'm puzzled by this  
9 -- I keep hearing this MOU that you think we need with  
10 FDA and I'm puzzled, why do you think we need an MOU?

11 MR. SIEMON: I thought that's exactly what you  
12 told us in Chicago concerning the directives on the fish  
13 meal -- I mean, you know, fish meal, pet food. I  
14 thought -- you know, you -- I thought I that's -- I  
15 heard you say clearly there that until we have that, you  
16 have to make these determinations because you don't have  
17 an understanding with them on these different things.

18 MS. ROBINSON: Well, what occurred before the  
19 Final Rule was published was very long, protracted  
20 conversations and negotiations with FDA because they  
21 have the jurisdictional authority for food labeling and  
22 so USDA had to have those discussions with FDA in order  
23 to basically introduce an organic label for food  
24 products. Now -- I'm not questioning and I'm not  
25 criticizing when I hear you say MOU, I'm just saying I

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1 don't know that we necessarily need an MOU to get the  
2 job done with FDA. What we need is a conversation and  
3 we need a conversation at policy official level so that  
4 those of us at the staff level, you know, have got the  
5 support to say all right, let's brainstorm this and  
6 figure out a way to solve this problem without  
7 compromising either FDA's regulatory authority or the  
8 needs of the organic industry.

9 And that's why I'm thinking that the, you  
10 know, a working paper with some suggestions that would  
11 serve as a basis to sit down and have a dialog would be  
12 the way to go. I mean, I -- you know, MOUs are fine and  
13 everything, but I'd rather just solve the problem and of  
14 course, we can -- we'll ask FDA, you know, do we need an  
15 MOU to have this kind of relationship or can we not just  
16 simply work together as sister agencies to try and you  
17 know, figure this out.

18 CHAIRPERSON KING: Dave.

19 MR. CARTER: Well, I think -- and I'm probably  
20 the person that has beat the drum the hardest with the  
21 use of the word MOU or the phrase MOU and the MOU, I  
22 mean, is just a catchword for the vehicle. It's not  
23 really the end-all. The point of the story is to get  
24 some equivalency and some compatibility between how USDA  
25 and FDA, you know, handle these, whether it's done

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1 through an MOU or a secret handshake or you know,  
2 whatever. I don't care what the vehicle is, it's the  
3 point is to try to get the end result, to have some  
4 equivalency.

5 MS. ROBINSON: We need a password.

6 CHAIRPERSON KING: Owusu.

7 MR. BANDELE: Yeah, I think it's a good  
8 suggestion that Barbara made in terms of those options,  
9 however, with one exception. I don't really think that  
10 the -- allowing all over-the-counters except the ones  
11 listed is a viable solution to the problem. I think  
12 it's much too broad.

13 MS. ROBINSON: That's okay, that's okay. You  
14 can trash your own proposals. The idea is that you have  
15 all the proposals and then we say well, here's the  
16 advantage and the disadvantage of these and we can even  
17 say which are the strongest and you know, which are the  
18 weakest, which we would prefer and which are the least  
19 preferable. I take your point, Owusu, and I -- in fact,  
20 I think you may have the most problems with that one,  
21 but nevertheless, it is an option. It may be the straw  
22 man you set up and knock down, but it's an option to put  
23 on the table.

24 MR. MATHEWS: It's also an option that you  
25 list your pros and cons on and that you look at the

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1 different options within that option and you may create  
2 restrictions on that option. I mean, for example,  
3 you've already allowed certain materials as a blanket  
4 unless otherwise prohibited, so you may be able to come  
5 up with even another version of -- Becky raises the  
6 issue that some of them have antibiotics, so all of them  
7 are okay except for those that contain antibiotics or  
8 those that contain something else or those that are used  
9 in this way. So I mean I wouldn't, as Barbara said,  
10 just totally drop it right out of hand right now because  
11 it is an option we can explore and then you look at your  
12 options within the option.

13 MS. ROBINSON: Right. I mean, over-the-  
14 counter drugs are also classified into categories, you  
15 know -- aids and what-not. I mean, I'm not a  
16 pharmaceutical expert except when I get my  
17 prescriptions, but I'm sure that there are categories of  
18 over-the-counter drugs that you could -- so Rick's  
19 right. Even though it may be your weakest option, it is  
20 -- there's possibilities that you could construct  
21 something that says, you know, all over-the-counter  
22 medicines are allowed except for nine out of the ten  
23 categories. So you've limited everything except the one  
24 you want.

25 CHAIRPERSON KING: Yeah. Jim -- but hold on

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1 one second. I wanted to summarize this quickly and kind  
2 of finish this up and make sure we take away an action  
3 plan here. So it's my understanding, and correct me if  
4 I'm wrong, we're going to consider these four categories  
5 and Dave, I think if you agree to put this on the work  
6 plan for policy development -- what's not clear to me is  
7 are we going to try to accomplish this in the next  
8 couple of days or is this an on-going work plan? It  
9 sounds like some on-going work.

10 MR. RIDDLE: Yeah, and that's what I was going  
11 to suggest is the Policy Committee take this on for  
12 consideration by the Executive Committee, you know, in  
13 order to keep it moving, keep the ball rolling and not  
14 have to wait until the next Full Board meeting but that  
15 it also, besides, you know, the four options that have  
16 been mentioned, any other brainstorming that we can up  
17 with, as well. But then with an introductory paragraph  
18 stressing the need for the policy work at the highest  
19 levels, as well; to have the support developed there  
20 that builds on the support that Arthur did by that work,  
21 but -- so yeah, I think we -- and we don't need a motion  
22 on that. We already have agreement to put that on the  
23 work plan.

24 MS. ROBINSON: Mark?

25 MR. RIDDLE: And -- yeah. Then I have another

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1 question.

2 MS. ROBINSON: Can I -- well, let me make the  
3 -- in the interest good collaboration, I'll take the  
4 first crack. I will write the front end of the working  
5 paper that lays out the issue associated with the  
6 National List and the organic program as if we were  
7 going to send this memo say, to the Secretary, you know,  
8 saying what we need is a conversation with the  
9 Commissioner of FDA or something like that and then lay  
10 out the options. And then I'll send it to you and so  
11 that you -- it's usually easier to add and I can crank  
12 out something fairly quickly on the front end of it and  
13 then you fill it on these options as much as you can.  
14 We may have to break this thing down into a short memo  
15 to the Secretary with an options paper behind it, but we  
16 can do that.

17 CHAIRPERSON KING: Um-hum.

18 MS. ROBINSON: And I can get you something.  
19 Unfortunately, I'm sort of -- well, actually, I can --  
20 I'll do something over the next week or so while I'm at  
21 home.

22 CHAIRPERSON KING: Great. Rose --

23 MS. KOENIG: I agree. I'll do the I-R4  
24 research. I'll take that and within the same amount of  
25 time and look into that.

1                   CHAIRPERSON KING: Okay. Sounds good. All  
2 right.

3                   MR. RIDDLE: Yeah. Then I had a question. We  
4 heard about the processing docket or processing  
5 materials and livestock; were there some crop materials,  
6 too, or what's the status of them?

7                   MR. NEAL: Apologize. Those crops materials  
8 have been lumped into that processing docket. There are  
9 only, what, three? About three or four of them. So  
10 they've been lumped into that processing docket. I  
11 apologize for that oversight.

12                  MR. MATHEWS: Yeah, the docket that is already  
13 in clearance channels contains everything except for the  
14 livestock materials. Everything that's outstanding,  
15 including what was brought up at last April's meeting.

16                  MR. RIDDLE: But not the boiler additives of  
17 the activated charcoal or it does?

18                  MR. MATHEWS: Everything.

19                  MR. RIDDLE: Okay, great.

20                  MR. MATHEWS: Everything.

21                  CHAIRPERSON KING: All right. If there are no  
22 further questions, we'll move to the next agenda item  
23 which is discussion of the recommendations concerning  
24 compatibility, commercial availability and non-  
25 compliances, so if we want to take those in order, I

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1 believe Barbara or excuse me, Catherine [ph] has been  
2 kind enough to make copies and they're in the yellow  
3 folder, so if you want to pull those out for the  
4 purposes of discussion and -- and I guess we're just  
5 hoping to have some dialog here with NOP to make sure  
6 we're sort of on the right page, that you feel these are  
7 useful documents. If so, why? And if not, how can we  
8 improve on them?

9 MS. ROBINSON: Can I beg the court's  
10 indulgence? Can I ask the Board can we flip-flop here  
11 for a minute? Can we go to the framework for  
12 collaboration and then come back to these? Would you  
13 mind? Because I can -- I can't address your -- I didn't  
14 read your -- I'm sorry, I didn't do my homework on  
15 these. And I --

16 CHAIRPERSON KING: We appreciate your honesty.  
17 Does anyone have a problem jumping ahead and then coming  
18 back?

19 MS. ROBINSON: And I think that we have had --  
20 the staff has been working on the issues in the yellow  
21 folder.

22 CHAIRPERSON KING: Yeah, Rose.

23 MS. KOENIG: I just wanted to state what --  
24 you know, again, this is my opinion, but as far as the  
25 compatibility with the system of sustainable

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1 agriculture, because that's one of our criteria that we  
2 look at materials --

3 CHAIRPERSON KING: Um-hum.

4 MS. KOENIG: -- I think that we can go ahead,  
5 as a Board, if this -- if we've already adopted it --

6 CHAIRPERSON KING: Um-hum.

7 MS. KOENIG: -- just incorporate that into our  
8 materials process because it clearly addresses an area  
9 where we have authority.

10 MS. ROBINSON: That's true. That is your --  
11 that's your purview. That's your decision, that is your  
12 opportunity to put your imprimatur on the materials  
13 approval process and we really -- unless I was to hear  
14 something that I haven't heard yet, we don't expect to  
15 contradict your definition of what is compatible with  
16 the system of organic production and processing.

17 MS. KOENIG: So I really just think the work  
18 plan on that is as we go through this materials process  
19 to make sure that that goes into the new -- you know, if  
20 we're going to put out a new petition notice, that that  
21 gets incorporated under that criteria, but we've  
22 approved of that.

23 CHAIRPERSON KING: Right.

24 MS. KOENIG: I don't think we need NOP  
25 approval on that area.

1                   CHAIRPERSON KING: Well, we actually reviewed,  
2 voted on and approved this at the April meeting, so if  
3 NOP doesn't have a problem with this being part of that  
4 process, we --

5                   MS. ROBINSON: We may have a few comments and  
6 questions for clarification, but like I said, the  
7 decision process, the authority to determine  
8 compatibility with the system of sustainable and organic  
9 production is the Board's authority. Now, actually --

10                  CHAIRPERSON KING: Okay.

11                  MS. ROBINSON: -- Rick tells me that he's  
12 willing to -- he has done his homework and so we don't  
13 have to interrupt the agenda and he'll address the minor  
14 non-compliance.

15                  CHAIRPERSON KING: Sounds good.

16                  MR. RIDDLE: And just on the compatibility, I  
17 wanted to point out that it now is incorporated in the  
18 Board policy manual, as well, but it does need to, you  
19 know, go to TAP [ph] contractors, reviewers, so that  
20 they understand our understanding of compatibility as  
21 well as petitioners.

22                  CHAIRPERSON KING: Kim.

23                  MS. DIETZ: And then we have been using this  
24 document when we have the material review criteria, so  
25 we just incorporate in as this document is how we define

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1 compatibility.

2 MS. ROBINSON: The only -- we don't have any  
3 problem with the TAP contractors having a list of what  
4 you define to be compatible measures --

5 MR. RIDDLE: Um-hum.

6 MS. ROBINSON: -- but we again remind the  
7 Board that is your determination to make.

8 MR. RIDDLE: Right.

9 MS. ROBINSON: That is not up to a TAP  
10 reviewer to tell you whether a material is compatible  
11 with sustainable agriculture. You must determine. But  
12 we -- my understanding is that you wanted the TAP  
13 contractors to have that to understand what it is you're  
14 looking for. Just so we're clear about this. It's your  
15 decision, not theirs.

16 MR. RIDDLE: Right.

17 MS. ROBINSON: Okay.

18 MR. MATHEWS: Now on the Minor Non-Compliances  
19 document, I still have reservations on that document.  
20 I've had reservations of that document since draft one  
21 and I think it went through like eight different drafts?  
22 The -- one of the things that we have done within the  
23 NOP is we have hired Mark Bradley to come in and work  
24 with us and he is our accreditation manager. He's  
25 working closely with the ARC [ph] branch; he's working

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1       closely with me on a number of issues and the issue of  
2       minor versus major non-compliance is an area of  
3       responsibility that has been given to Mark for  
4       developing guidance within our operating manual. Mark  
5       is the one that is trying to get that manual through.  
6       He will be working on that very issue. We will take all  
7       of the recommendations in this document that we're  
8       discussing right now into consideration.

9                Again, though, I remind everyone that every  
10       minor at some point becomes a major and so we have to  
11       make sure that that is fully acknowledged. There are  
12       certain things that are in the Act and in the  
13       regulations that will constitute majors. We need to  
14       make that clear for certifying agents. We also have to  
15       make, as I -- and I'm going to repeat myself. We have  
16       to make clear that minors do become majors. Let me give  
17       you an example and maybe you won't agree that it's a  
18       minor, but let's just give it in example, okay?

19               We had a case -- and this person has been  
20       revoked, by the way, by the USDA. The person did some  
21       physical alterations. The certifying agent told him  
22       you're not allowed to do physical alterations. They got  
23       a signed statement from the person saying they would  
24       never do another physical alteration. So they looked at  
25       the physical alteration as being minor because they

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1       could correct the problem for future and that it didn't  
2       in any way impair the organic nature of what it was  
3       that, you know, the meat or milk or whatever else  
4       products are coming from that animal. So they  
5       classified that as a minor. The guy signed off on a  
6       document saying I shall never do this again. Well, he  
7       did. So the USDA looked at that as a major. He had  
8       been told not to do it, he acknowledged the fact that he  
9       wouldn't do it again, he did do it; it became one of the  
10      two counts against this person for revocation. So it  
11      was elevated quite rapidly once it became a willful,  
12      okay.

13                So there's a -- there's probably hundreds of  
14      examples like that, so we are being very cautious when  
15      it comes to this idea of laying out minor/major. I  
16      mean, it's a no-brainer if you're using a prohibited  
17      substance, it's major. It becomes a question of whether  
18      or not it was willful or not, but you will always have  
19      to put your land through a new three-year transition  
20      even if the land was contaminated at the hands of  
21      somebody that you employed to do that. So -- I mean,  
22      that is always going to be a major. Because there's  
23      only one way to fix the problem and that's a new three-  
24      year transition for the acreage.

25                So these are the kinds of issues that Mark is

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1 going to be working on. We appreciate what the Board  
2 has done in putting this together, especially you, Jim,  
3 and we acknowledge that it is a problem area but we have  
4 to be very cautious as we move forward so that minor  
5 non-compliances that should it, at some point, become  
6 major, don't end up into perpetuity.

7 MR. RIDDLE: Um-hum.

8 MR. MATHEWS: Okay?

9 CHAIRPERSON KING: Okay. Thanks, Rick. Rick,  
10 do you want to continue with Commercial Availability  
11 Task Force report or shall we move on to --

12 MR. MATHEWS: We need some more time on that  
13 one. We're not prepared --

14 CHAIRPERSON KING: That's fine.

15 MR. MATHEWS: -- to address that at this  
16 meeting.

17 CHAIRPERSON KING: That's fine.

18 MR. MATHEWS: It's a complex issue.

19 CHAIRPERSON KING: Yeah, okay. I understand.  
20 Well, we're actually a bit ahead of schedule for -- I  
21 think for the first time.

22 MR. MATHEWS: Well, you can't help that.

23 CHAIRPERSON KING: I'm not sure what to do.

24 MR. MATHEWS: Well, you do want to talk  
25 framework, right?

1                   CHAIRPERSON KING: We do want to talk  
2 framework.

3                   MR. MATHEWS: Yeah. Okay, well that's the  
4 next item.

5                   CHAIRPERSON KING: And we don't have a break  
6 scheduled until 10:00 so let's go ahead and --

7                   MS. ROBINSON: Well, let's go ahead. All  
8 right. I'll edit -- I'm going to address my remarks to  
9 the folks in the room as well as the Board. As many of  
10 you know, as most of you know, we issued statements  
11 earlier this April that obviously caused a lot of  
12 consternation in the organic industry and as a result,  
13 we had a meeting on June 9 in Washington, D.C. The  
14 members of -- members of the Board attended that  
15 meeting. I believe it was the members of the Policy  
16 Development Committee.

17                   In addition, OTA was at that meeting;  
18 Michael Sligh was at the meeting and Kathleen Merigan  
19 [ph] was at the meeting representing the organic  
20 industry; A.J. Yates, the administrator of AMS;  
21 Kim Clayton, the associate administrator; myself were  
22 there from the Department and the Secretary did stop in  
23 very briefly on her way to another meeting, but at that  
24 meeting the Board as well as the other folks in the room  
25 made it abundantly clear that a more collaborative

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1 relationship was needed in order for our relationship to  
2 continue to coexist. I think we heard a number of times  
3 during that meeting that we'd all rather not get  
4 divorced but we were all in dire need of counseling at  
5 that point.

6 And since that meeting -- and we developed  
7 some takeaways and among those was we expressly asked  
8 and the Board committed to going back and developing  
9 feedback on the issue papers that we had posted. We'll  
10 discuss those at this meeting. I do want to say  
11 briefly, at this point, my compliments to the Board on  
12 the feedback that you did develop. It's excellent and  
13 we appreciate it very much. But in any event, we  
14 decided, we committed at that meeting to have a more  
15 collaborative relationship and we believe that since  
16 June 9 that's exactly what we have done. I don't think  
17 that the program has taken an issue without having a  
18 discussion with the Board.

19 Now, formal actions on issues, because of this  
20 collaboration are -- will have to take place in an open  
21 public meeting. I don't think you, the public, want us  
22 to just pick up the phone, talk to the Board and make --  
23 get the Board's input and make decisions without going  
24 through the public meeting process and so -- and there's  
25 actually two rounds of that. One is the public meeting

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1 that you're sitting in right now and the second is when  
2 recommendations are proposed and they require rule-  
3 making, we go through a second iteration of public  
4 involvement.

5 So let me give you an example -- not an  
6 example, let me give you a list of the issues that we've  
7 worked on since June 9 that we have collaborated with  
8 the Board on and this is how we intend to operate in the  
9 future. We sent a letter to OMRI agreeing to provide a  
10 review of the *OMRI Generic Materials List*. OMRI asked  
11 NOP in Chicago if we would consider doing that so that  
12 we can make sure that the OMRI list of generic materials  
13 and the National List of Materials are in sync and that  
14 there are not any inconsistencies. We agreed. We  
15 drafted a letter; we sent the letter to the Board prior  
16 to -- to get their input, which they did provide and  
17 then that letter was -- it should be posted on our  
18 website. We also sent it to all the certifying agents,  
19 as well.

20 A statement of work was drafted to explain the  
21 expectations of contractors who want to perform  
22 technical advisory panel reviews on materials petition  
23 for inclusion on the National List. We'll provide the  
24 Board with copies of that statement of work. But we did  
25 give the Board the copy of the statement of work prior

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1 to sending it to Minneapolis and sending it out for TAP  
2 reviewers to apply. Actually, in that case, I'll be  
3 honest with you. We found out after we sent it to you  
4 that we weren't supposed to because it puts you into --  
5 puts you in the potential position of, you know,  
6 influencing the contractual process. Nevertheless, we  
7 did it. I was told I created a criminal act in the  
8 Department and I forget what law it was I broke, but I  
9 had to go upstairs and get yelled at.

10           Petition procedures and petitions. We -- our  
11 procedures have been discussed with the Board for your  
12 input and approval. All petitions will now be forwarded  
13 to the Board prior to submission for TAP reviews. A  
14 compliance question that was submitted to us regarding  
15 the organic status of seedlings and transplants, prior  
16 to us answering the question of the certifying agent, we  
17 posed the question, the generic question to the Board  
18 and got their feedback and then we answered the  
19 certifying agent's question.

20           Sunset of the National List, as you know,  
21 we've been iteratively back and forth on that. We will  
22 continue to do that, taking the Board's feedback.  
23 Discussions on naturals versus synthetic materials. I  
24 don't know that we could necessarily say we've had this,  
25 you know, all-in-caps heading, a discussion of naturals

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1 versus synthetics, but materials have arisen and we --  
2 and has caused us to contact the Board and what the  
3 issue boils down to is how do we define a material as  
4 natural versus synthetic? And so we have been having  
5 those sorts of conversations and hopefully, we'll get  
6 some guidelines that we can all agree on that are useful  
7 for resolving these determinations in the future because  
8 they do pose problems when materials are petitioned for  
9 the National List.

10 So we intend to continue this collaborative  
11 engagement. As I said, in many cases the file  
12 resolution of the collaborative efforts require that a  
13 public meeting will have to take place, you know, that  
14 will slow us down but it will assure that the Board is  
15 engaged with the Department and that your advisory role  
16 to the Department is recognized. So I figured that just  
17 giving you an action plan telling you what we've done  
18 and this is how we intend to continue to operate.

19 Now, some other things, you know, that are on  
20 the agenda for discussion later; you asked for a review  
21 of the Board Policy Manual and I did that. The staff  
22 isn't to be blamed for that, but I do have a policy  
23 manual for you, I just haven't made all the copies yet,  
24 but I'm happy to go over edits with you on that. As I  
25 said, you've provided considerable to the Department on

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1 the issue papers; on fishmeal, on antibiotics and on  
2 scope [ph] that we think we're going to be able to have  
3 a really good conversation with you on and discuss where  
4 to go from here based on your input.

5 And I know that there are, you know, several  
6 other things. I don't know, do you want me to --  
7 they're on the agenda for after the break so do you want  
8 me to just wait and we'll just take them up then, but --

9 CHAIRPERSON KING: Well --

10 MS. ROBINSON: But I wanted you to know that,  
11 I guess, our interpretation of the framework of  
12 collaboration is do it, not just write you papers about  
13 it, do it. And so we think that since June 9 we've done  
14 it.

15 CHAIRPERSON KING: Well, I have one quick  
16 comment and then Dave, then Jim. And I just wanted to  
17 thank, you know, the staff for the last few months when  
18 I've picked the phone up and called, I mean, you've been  
19 there, been available or returned my call very quickly  
20 and I know that you work very hard on a lot of these  
21 issues and we appreciate that. And so it's been nice to  
22 know that something did become, you know, productive for  
23 all of us involved in the June 9 meeting and that  
24 ongoing, I think you're right, Barbara. It's more of a  
25 how do we do things not how do we send a "report card"

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1 but at the end of the day we all need to know, you  
2 included, of course, that you know, that we've  
3 accomplished something and that we've moved this  
4 industry forward in a positive fashion including public  
5 input, including stakeholder interest, including you  
6 know, advisement from the NOP and the Board. So thank  
7 you for that. And Dave, did you -- okay, I was just  
8 trying to wake you up. Just kidding. Jim, I know, has  
9 a comment and George.

10 MR. RIDDLE: Yeah, I really appreciate the  
11 collaboration in reality as you described and I think  
12 the atmosphere has definitely more conducive to that and  
13 I look forward to building on that and it's quite  
14 encouraging to hear your comments about the drafts that  
15 we have on the table on the issue papers, as well. One  
16 comment, I -- and I've been traveling and I may have  
17 missed a discussion of the planting stock, that letter  
18 about the onion, you know, onion plants. I just thought  
19 at the end of the day -- I didn't know the Board had a,  
20 you know, consultation on that.

21 But I guess the question I have is about, you  
22 know, at that June 9 meeting we did present a framework  
23 document that built on your decision-making procedures  
24 and tried to, you know, build in some feedback loops for  
25 you to consider, you know, probably in your program

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1 manual that you reference there so that would be some  
2 predictability, some, you know, and staff changes, Board  
3 members change but policies, you know, stand until  
4 intentionally changed and I'm just wondering what your  
5 reaction is to the document that we presented there and  
6 if that has any legs, if we can continue to move that  
7 forward so that there's something that lives beyond us,  
8 in a way. I mean, you know --

9 MS. ROBINSON: Well, let me be honest with  
10 you, Jim. I -- well, I said I'll be honest. I don't  
11 like the document because I thought if put in place,  
12 rigid sort of loops -- it implied and maybe it was just  
13 the way that it was written, that every time an issue  
14 comes up -- even though we -- this is exactly what we're  
15 doing, we're collaborating with you, we're coming to you  
16 with the issues. The way that it came across to me was  
17 that we had to get your approval, you know, to do work  
18 and while I'm not adverse to having something written  
19 that says that we, you know, commit to a consultative  
20 and collaborative role --

21 MR. RIDDLE: Um-hum.

22 MS. ROBINSON: -- the detail in that document  
23 didn't -- it just didn't punch my buttons. I would much  
24 rather -- and when we discuss the staff director  
25 position, I think it will become more evident that how

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1       that consultative role is manifested because it will be  
2       part of the staff director's duties to provide that  
3       link.

4                   MR. RIDDLE:   Um-hum.

5                   MS. ROBINSON:   And in reality, Jim, as you  
6       know, as we all know -- I mean, surely you're not going  
7       to suggest that you're the least bit worried that we'd  
8       put something up on the web without talking to you.  I  
9       mean, I think it's been demonstrated quite clearly that  
10      the checks and balances are in place --

11                  MR. RIDDLE:   Uh-huh.

12                  MS. ROBINSON:   -- and you know, so I don't see  
13      that -- you know, if you're concerned -- if what I'm  
14      hearing is gee, how do we trust you, how do we keep you  
15      from doing this again, I mean, I think you're on public  
16      record and I think you've demonstrated that, you know,  
17      ignoring the Board or ignoring the input or failing to  
18      get the input prior to taking significant actions, we  
19      would be doing at our own peril.  Now, that is not to  
20      say that we will always agree with you, nor do we have  
21      to.  And I think you agree with that statement, you  
22      know.  What we're after is consensus, what we're after  
23      is a productive relationship that spurs this industry  
24      forward, that keeps it growing and maintains its  
25      integrity.  So we heard you and you know, do we need

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1 something -- if having something on paper is going to  
2 make you feel better, maybe there's a place in the  
3 policy manual to do it, but I just -- the specificity in  
4 that framework paper just didn't do anything for me.  
5 Sorry.

6 CHAIRPERSON KING: Dave then Kim.

7 MR. CARTER: Barbara, I appreciate that. I  
8 don't know that we, you know, the level of specificity,  
9 I can completely appreciate your concern there. I think  
10 what we were trying to bring forward, though, with that  
11 whole process was somehow how to quantify and establish  
12 a procedure that we could use. And I think perhaps some  
13 of the specificity in there was in trying to utilize the  
14 decision tree process and those types of things that the  
15 program had brought to the Board previously in how to  
16 make decisions and as a first step of that. And how do  
17 we, you know, how do we integrate our decision-making  
18 process or how do we integrate our communication with  
19 the program as a part of the decision tree process that  
20 the program has said that it would like to use already.  
21 So I think that's where some of that got in.

22 Now, I would prefer, at the end of the day, to  
23 see a document that is very brief and gives some  
24 guidelines and some flexibility on that, but I do think  
25 it is helpful to have some sort of a written procedure.

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1                   CHAIRPERSON KING: Kim.

2                   MR. CARTER: I think Barbara's --

3                   MS. ROBINSON: I appreciate that, Dave, and I  
4 -- what I guess I'd rather see, if I -- and I'm just  
5 sort of brainstorming here by myself, but -- so it  
6 should be short, right, but I -- what I'd rather see is,  
7 you know, let's divide it into sort of the major  
8 activities or products like okay, what are we -- how are  
9 we going to handle things that arise on materials; how  
10 are we going to handle compliance issues; how are we  
11 going to handle, you know, standards, development  
12 issues, those sorts of things? I'd rather approach it  
13 from that way because then there will be some questions  
14 that arise that basically we need -- we almost need to  
15 just kind of like to be able to alert the Board quickly,  
16 you know, this is happening.

17                   I mean, I can't off the top of my head think  
18 of an issue, but suppose there was one. Now, do I want  
19 to take a week to develop a decision tree and tell you,  
20 you know, the dire consequences that will happen if we  
21 don't answer this question today, da-da, da-da, da-da.  
22 I want to be able to get to you, say this is an issue,  
23 here's where we believe we need to go but you need to  
24 know about this. You need the heads up and you know,  
25 and tell us right now if there's something we don't know

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1       about this issue. I want a mechanism that allows us the  
2       most flexibility that we can have and still have a  
3       productive relationship.

4                   CHAIRPERSON KING: Kim.

5                   MS. DIETZ: I think you have a very talented  
6       group of people up here that are good at writing  
7       policies and procedures so we could certainly come up  
8       with something that's going to achieve our goals. I  
9       also want to remind everybody that at one point we had a  
10      mission statement and we sat down as a group in a  
11      working session for a few days and came up with mission  
12      statement, that we revisit that mission statement and  
13      perhaps somewhere in there we can put some new language  
14      with this collaboration and it's short and concise and  
15      that's between the Board and the NOP, so we should go  
16      back and visit that.

17                  CHAIRPERSON KING: Rose.

18                  MS. KOENIG: I just wanted to mention to the  
19      Board and it's something I talked to some individuals  
20      about that no matter what, you know, you can write down  
21      -- I sort of with Barbara in a lot of ways. You know,  
22      you can have great plans but you still -- you know, the  
23      bottom line is do you follow through with them. And I  
24      think one of our issues that we need to struggle with is  
25      we need to figure out in the next few years -- we're

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1 going to have a big transition off of this Board and our  
2 -- we need to orient new members so that they understand  
3 these linkages and the relationships that are there or  
4 no matter what we write down, there's going to be a non-  
5 functioning relationship, so somehow as we bring on  
6 these new members and then the following year, as the  
7 next group comes in, people not only have to understand  
8 what their role is but how this collaboration works so  
9 that they can get to work and make sure the system  
10 works. So that's something that we need to work with  
11 NOP in figuring out how do we get oriented, you know,  
12 how do new members get oriented to the system so that  
13 they don't lose year, you know, of non-productivity.

14 CHAIRPERSON KING: I do recall at the June 9  
15 meeting that one of the commenters said, you know, if  
16 everything were running smoothly we wouldn't be having  
17 this meeting and I think that's true and in large part  
18 since that time, things have been pretty smooth and I do  
19 understand the concern of Board members and people in  
20 the industry who would want something in writing, not  
21 necessarily that's incredibly rigid and says, you know,  
22 you must call before you make a cup of coffee kind of  
23 thing, but so that there is some sort of institutional  
24 memory here and a foundation for ongoing relationships  
25 that really are beyond us and beyond you, should you

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1 choose another endeavor. But I recognize what you're  
2 saying, Barbara, that there does need to be some  
3 flexibility and you have to be able to call upon the  
4 Board as needed and not feel like there's a policy and a  
5 procedure for, you know, rearranging your desk before  
6 you do so, so --

7 MS. ROBINSON: Well, I'm more than willing to  
8 go back and take the framework for collaboration that  
9 you did draft and you know, see what -- respond to it in  
10 writing, kind of edit it, see if I can up with something  
11 that's a -- you know. I mean, let's just negotiate the  
12 framework of collaboration, the words. We'll go back  
13 and forth with that. That's not a problem. If that is  
14 what you -- if having something in writing, you know,  
15 really matters and that helps you, then that's what  
16 we'll do.

17 CHAIRPERSON KING: And I guess -- if I could  
18 just follow up on that -- I don't know necessarily that  
19 "it must be a document." It could be part of our Board  
20 policy manual and your standard operating procedures.

21 MS. ROBINSON: Sure.

22 CHAIRPERSON KING: I mean, if that  
23 accomplishes that, then I think that would be fine, so I  
24 don't think we're no -- necessarily married to the  
25 document format, but I think what we're saying here is

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1 that we do want to know, ongoing, that the relationships  
2 will -- and you know, the policies and procedures will  
3 be there to make sure that we have good outcomes.

4 MS. ROBINSON: Kind of like an MOU.

5 CHAIRPERSON KING: The acronym for the  
6 meeting, right? Jim then Rosie.

7 MS. KOENIG: And again, I think it's very  
8 important -- I don't --

9 CHAIRPERSON KING: Rose then Jim.

10 MR. RIDDLE: Okay.

11 MS. KOENIG: Okay. Sorry, Jim. But you know,  
12 I don't -- I think the Board needs to take some  
13 responsibility because it is, in fact, a collaboration  
14 and we need to write job descriptions, you know, for the  
15 -- you know, if you're a Materials Committee chair, what  
16 are your roles, you know, so that when new people come  
17 in and they're stepping into a position they understand  
18 what their responsibilities are when they take that and  
19 then who the contact person is and also, you know, maybe  
20 some general -- we know -- I think through our  
21 experience on the Board, as we're leaving, you know, we  
22 know probably more effective ways of getting the job  
23 done in terms of, you know -- because I know what  
24 Arthur's been saying and I think it's true and when we  
25 have these conference calls we need to get a piece of

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1 paper so that, you know, or the agenda or whatever, so I  
2 think that's part of that collaboration is what our  
3 responsibilities are, to fulfill that as well as the  
4 NOP's responsibilities.

5 CHAIRPERSON KING: Rose, I mean Jim.

6 MR. RIDDLE: Thanks, Rick. Yeah, I totally  
7 agree that as it's most important how we live, not what  
8 we say or what we write down, but -- and in our Board  
9 policy manual, we do still have the vision statement,  
10 admission statement and committee descriptions there  
11 already and we need to make sure that those are always  
12 up-to-date and build on those because those do carry on  
13 from Board to Board, but I -- in Barbara's kind of  
14 hierarchy approach of different, you know, types of  
15 issues, I really like that.

16 I think that is more tangible than the  
17 document that we put on the table and so if you're going  
18 to go back, don't, as far as I'm concerned, feel  
19 constrained to edit this, you know. Throw it out. Come  
20 up with something that works for you and let us respond  
21 to how it might work for us. But what we need is some  
22 kind of framework and like Dave said, it doesn't have to  
23 be long, doesn't have to be detailed, it shouldn't  
24 constrict you from conducting business, but it should  
25 also ensure that we're used to extent, a maximum, you

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1 know, extent possible to really fulfill our mission  
2 under OFPA, you know, advising the --

3 MS. ROBINSON: When I give you the edited  
4 policy manual, I -- one of my suggestions was that you  
5 break it into policy and procedures and so you would  
6 have a section in the manual that is devoted to  
7 procedures and this might be a perfect place to put  
8 something like that, is the procedures that -- kind of  
9 the rules of engagement between NOP and NOSB, something  
10 like that.

11 CHAIRPERSON KING: Goldie.

12 MS. CAUGHLAN: Thank you. I've been trying to  
13 figure out how I wanted to frame this, because certainly  
14 we are pleased that we've been able to improve as  
15 between the Board and NOP in understanding and a working  
16 relationship and I think that that is good and that it  
17 will continue to move forward. But I wanted to just, as  
18 a consumer rep, particularly point to the fact that I  
19 think a great deal that might be taken, particularly, to  
20 NOP is that we're doing a lot of talking up here about  
21 the relationship that -- as between the working  
22 relationship between the Board, per se, and the program.  
23 I think the public, the consumers, the other  
24 stakeholders; I think it's very important and I feel  
25 like I just want to state this for the record and to

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1       NOP, that a great deal of the fallout that has come not  
2       only at the April meeting, but at previous meetings has  
3       resulted from the public feeling as though they are not  
4       heard.

5               And I think when we have public meetings it  
6       certainly isn't a good feeling that people have when  
7       members of the NOP staff are not in the room when the  
8       public is giving testimony. And that was the case  
9       during much of the April meeting and much of the  
10      feedback that I have read and heard has had to do with  
11      this sense of being dist, that when you speak to  
12      someone, particularly when you speak to what it feels  
13      like this large and is, this huge entity of USDA or of  
14      any agency. It's extremely important that the  
15      representatives of that agency be present in a non-  
16      defensive, listening mode.

17              And I know that you have taken very, very  
18      seriously public testimony. I do not question that, but  
19      I think it is very important that -- to keep in mind as  
20      we move forward in this new spirit of collaboration that  
21      the public testimony that we'll be hearing again this  
22      time and the public who comes to these meetings, travels  
23      at great expense, gives their time, their energy;  
24      there's been a real frustration. And I would hope that  
25      we can work on that specifically and have members of the

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1 staff be present both in fact and in spirit listening to  
2 public testimony, non-defensively, in a sense of moving  
3 forward. Because yes, I do believe that we all have the  
4 best interests of keeping organic organic as we go  
5 forward. Thank you.

6 MS. ROBINSON: Thanks, Goldie, and we fully  
7 accept those remarks.

8 CHAIRPERSON KING: Thank you, Goldie. Well,  
9 we have a break scheduled for 10:00. If everyone's okay  
10 with that, we'll be back here by 10:15, please.

11 \*\*\*

12 [Off the record]

13 [On the record]

14 \*\*\*

15 CHAIRPERSON KING: Rick, are you prepared to  
16 represent everyone at the federal level at this point?

17 MR. MATHEWS: Authorized to.

18 CHAIRPERSON KING: Well, yes. We want to  
19 continue our discussion with NOP ongoing, but we'll give  
20 a chance to round them up. There's Barbara, so good  
21 job, Rick.

22 \*\*\*

23 [Off the record]

24 [On the record]

25 \*\*\*

1                   CHAIRPERSON KING: Well, I'd like to get  
2 started again and continue our discussion with NOP and  
3 the next item up is a discussion of an executive  
4 director position. Jim has informed me, has asked a  
5 couple questions at break and he wanted to make a couple  
6 quick points first.

7                   MR. RIDDLE: Yeah, first someone asked me  
8 about the public comment period this afternoon and there  
9 -- on our agenda, there's a list of some kind of  
10 suggested topics that the Board and NOP was seeking  
11 comments on and -- but people are not limited to those  
12 topics. As always, it's an open public comment we can't  
13 control and we don't want to. We like new ideas and so  
14 we just wanted to clarify that, it's not limited to just  
15 that list.

16                   And then also, there was a question about on  
17 this docket that is at OGC, hopefully for the final  
18 round of review and approval, that that does contain,  
19 like Rick said, all of the materials the Board has  
20 recommended, including the livestock materials because  
21 we got, you know, bogged down in the whole discussion  
22 back and forth, FDA and the status of those. Those are  
23 included on that docket and there will -- even the six  
24 that are currently problematic, they will be described  
25 in the docket, as well, is my understanding.

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1                   MR. MATHEWS: There are two dockets; one is  
2 livestock materials only. Everything that the Board has  
3 made a recommendation on that has not been previously  
4 acted on with the two amendments that were done last  
5 fall, all of those livestock materials will be at least  
6 mentioned in this docket, okay? And I say "at least  
7 mentioned" because the six that we're not able to put  
8 onto the list obviously won't be proposed for addition.  
9 The other docket takes everything except for the  
10 livestock material. So there's two dockets. Once  
11 they're both done, everything the Board has acted on  
12 will be taken care of, including the material from last  
13 April.

14                   CHAIRPERSON KING: Thank you, Rick. George,  
15 go ahead.

16                   MR. SIEMON: Yeah, I stepped out of the room  
17 when we did the compatibility -- did I miss the  
18 commercially available conversation, as well?

19                   CHAIRPERSON KING: No, they're going to  
20 comment at a later date on that, so you didn't miss  
21 anything there.

22                   MR. SIEMON: Are we going to talk about it in  
23 this meeting here or not? These next few days?

24                   CHAIRPERSON KING: It was my understanding  
25 that NOP had requested additional time to comment --

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1 MR. SIEMON: Okay.

2 CHAIRPERSON KING: -- in the future at some  
3 point.

4 MR. SIEMON: All right. I'm sorry. I missed  
5 that conversation. Thank you.

6 CHAIRPERSON KING: Okay. Okay, if there's no  
7 further discussion on materials, or a quick review, we  
8 just wanted to briefly talk about -- you know, some have  
9 called this position executive director, others have  
10 said it's somebody who will act as a liaison to the  
11 Board, so I don't want to, you know, limit it just to  
12 that title, but we did want to discuss ongoing how we  
13 could perhaps have an individual that would assist the  
14 Board in their efforts.

15 MS. ROBINSON: Okay. I'm very happy to report  
16 to you on that. A little background. As you know, you  
17 are created -- although you are created in statute, you  
18 are subject to the Federal Advisory Committee Act. And  
19 therefore, spending for this Board, for its activities,  
20 comes under what's called a FACA, FACA's the  
21 abbreviation of the Federal Advisory Committee Act. It  
22 comes under a FACA allowance that is -- this is going to  
23 sound a little weird, Congress both puts one foot on the  
24 brakes and one foot on the gas.

25 The Department of Agriculture, as every

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1 federal agency, is given an allowance by the Congress as  
2 to how much money in total the federal agency can spend  
3 on any advisory committees that it forms. In the past,  
4 our allowance to spend on the NOSB has been \$90,000 and  
5 that has been sufficient to cover the expenditures  
6 associated with the activities of the Board. Even  
7 though Congress increased our appropriation last year  
8 and the report language urged the Secretary to authorize  
9 the hiring of the staff director, we still had to --  
10 because that would be charged to the FACA allowance, we  
11 had to go back and ask the Department for permission to  
12 increase the spending within our own budget and charge  
13 that to NOSB activities. We went to the Office of  
14 General Counsel and asked if the staff director or the  
15 executive director, whatever you call it, had to be  
16 considered within the FACA allowance and the answer came  
17 back absolutely.

18 So we petitioned the Department, the Under  
19 Secretary for Administration of the Department, and we  
20 asked the Secretary, herself, to approve -- it's at her  
21 discretion -- to approve an increase in our ability to  
22 spend money to hire a staff director. What I was told  
23 last week, unofficially, is the answer is yes, we may  
24 now increase our allowance by \$100,000 so -- in order to  
25 hire a staff director. Now, that's -- I say that's

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1 unofficial. Congress has not yet acted on an  
2 appropriations bill for the Department of Agriculture.  
3 We're under a continuing resolution by law until  
4 November -- I don't know what date it is. It's early in  
5 November. I am limited to obligating something less  
6 than 14 percent of our budget.

7 Now, we are assuming, and we believe it's a  
8 safe assumption, that Congress is going to cut our  
9 budget this year. We'll get the same budget for NOP  
10 that we received last year. Therefore, there are  
11 sufficient funds to hire a staff director. So with that  
12 background -- I mean, that's kind of a long answer to  
13 get to -- the answer to the question is yes, we will  
14 hire a staff director for the NOSB. Now, that's the  
15 good news. The staff director must be a federal  
16 employee, so -- I'm going to say this and before you all  
17 get upset with me, just let me keep going a little bit.

18 The bad news is as a federal employee, they  
19 must be supervised by a federal employee, okay? They  
20 cannot work at the direction of the Board. Now, I know  
21 that doesn't sound good, but hang on a second. We want  
22 a staff director --excuse me -- to fulfill the Board's  
23 expectations. This staff director, the duties and the  
24 responsibilities of this staff member will be to work  
25 with the Board. Now, we have your draft position

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1 description that you sent to us. We also have a  
2 position description for a Board specialist, the staff  
3 director, if you will. What we need to do now is go to  
4 Human Resources, that's our personnel folks, and they  
5 draft up the actual position announcement.

6 It's our intention to request a 30-day -- we  
7 could go less, but we believe that we need to go 30-day  
8 announcement. All sources at the GS-9, 11, 12 pay  
9 grade. That means that, you know, you might get someone  
10 who comes in and you know, they're just a shining star,  
11 but their qualifications or their education says they  
12 can only start at a Grade 9 or a Grade 11, but they've  
13 got promotion potential up to -- the 9, 11, 12 means  
14 that they can -- if they qualify, they can come in at a  
15 12, but they -- if they only qualify at a 9, they can  
16 come in and they get promotion potential up to a Grade  
17 12. So that's what we're going to do.

18 Now, the -- I thought about this because I  
19 know you're going to want -- you know, as an advisory  
20 committee, I can't -- you can't select the person, okay?  
21 The most likely consequence of that will be some sort of  
22 discrimination complaint or some -- believe me, we'll  
23 have problems. We have to go through USDA's personnel  
24 selection process. So what I want to ask the personnel  
25 folks is if there is a way -- if I can ask applicants to

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1 submit short biographies, things that I can give you by  
2 way of introduction of the candidates.

3 I'm also going to ask if there's a way, you  
4 know -- very often if I was interviewing someone on my  
5 staff or someone to be a member of my staff in one of my  
6 program areas, after I interview them, it wouldn't be  
7 unusual at all for me to say I want you to come and meet  
8 the rest of the staff and you know, then get the staff  
9 feedback on the candidate just, you know, because it's  
10 good information. You may find out the chemistry isn't  
11 there or you know, what I see, they may not see; that  
12 sort of thing. So I -- I also want to ask the personnel  
13 folks how can I -- once I get a list of candidates, how  
14 can we facilitate some sort of -- I don't even know what  
15 to call it, but informal introduction or interview with  
16 you.

17 This person is going to have to work closely  
18 with the Board, so it makes sense, from my point of  
19 view, that you -- even though you can't select the  
20 individual, that you say -- you may meet a candidate and  
21 you're totally turned off by him. I mean, I -- what's  
22 the point of us hiring somebody that, you know -- it  
23 just doesn't work. But I haven't asked personnel those  
24 questions. I will. And what we will -- it also means  
25 the individual that is hired, you won't do their

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1 performance evaluation, okay, but your feedback to us  
2 will critically influence the performance evaluation of  
3 the individual. So we will do that.

4 I anticipate, given the way our personnel  
5 procedures are, although they are trying very hard to  
6 streamline their process, I can tell you there's not a  
7 manager in USDA that isn't frustrated with the personnel  
8 services that we get, but nevertheless, I'm hopeful that  
9 we'll have something out and announced this fall and  
10 then it will take a 30-day announcement period. Then  
11 typically, the process is you give the mail a little  
12 time to clear, although we will try to do this as much  
13 electronically as possible. And once the announcement  
14 is ready, of course, we will notify you. We do  
15 typically -- it goes up on the USA jobs listing, but  
16 we'll definitely notify the Board, because you know  
17 people out there that you may wish to encourage to apply  
18 for this position. So that's where we're going with it.

19 CHAIRPERSON KING: If I could suggest perhaps  
20 a test of character would be to provide them with every  
21 TAP review to date and see what the reaction is in the  
22 interview process, but --

23 MS. ROBINSON: You do want candidates, don't  
24 you?

25 CHAIRPERSON KING: Yeah, exactly. For those

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1 who are not savvy to the whole government format of  
2 employee, can you explain the 9, 11, 12 thing a little  
3 bit?

4 MS. ROBINSON: Sure. Typically, you know,  
5 when you advertise this will be a -- the category is  
6 called a marketing specialist. We may actually have a  
7 position in the books that's called an advisory board  
8 specialist and if we do, that's what will be used. But  
9 personnel will tell you that certain jobs, there are  
10 limits to the grades. 9, 11, 12 is your salary,  
11 basically. A 9 is -- I don't know, I believe it starts  
12 somewhere in the low 40's. My guess is a GS-12 is -- I  
13 don't -- I have the numbers right in front of me, but  
14 it's low 60's, maybe.

15 As a federal employee, of course, the  
16 individual will receive all the benefits that a full-  
17 time federal employee would get, so we estimate that at  
18 a GS-12 level, the cost to hire a staff director is  
19 approximately \$100,000 and that's what we asked the  
20 Department to spend. So very often, you know, if you  
21 come into the Department, you've applied for a position  
22 and let's say you have a bachelor's degree, you don't  
23 have a graduate degree, but you have a B.S. or a B.A. in  
24 some field and -- or you have the equivalent in terms of  
25 work experience that the government says is equivalent

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1 to a B.S., you may only qualify at a 9, okay? We just  
2 can't get you the 11.

3 You work for a year, provided your performance  
4 is fully satisfactory or better and your performance  
5 evaluations reflect that, you can be promoted  
6 immediately to a Grade 11. And then, again, you could  
7 be promoted within one year to a Grade 12. After that,  
8 then of course, in the federal system there are 10 steps  
9 associated with each grade.

10 You start at 1 -- the first three years with a  
11 fully satisfactory performance evaluation, you get what  
12 we call a within grade increase, which means -- so first  
13 three years you can go 12 Step 1, then Step 2, then  
14 Step 3. Then the government makes you wait 104 weeks to  
15 get your next within grade. And then you get up to  
16 Step 7 and then the government makes you wait, I think,  
17 three years to get your next step increase, so we try to  
18 make it as, you know, complicated and you know,  
19 non-motivating as possible, I guess, from what I hear  
20 from a number of people that -- does that answer your  
21 question, Mark?

22 CHAIRPERSON KING: Well, sure. And maybe even  
23 more than I wanted to know, but --

24 MS. ROBINSON: Yeah, probably.

25 CHAIRPERSON KING: But Dave, I think you had a  
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1 quick question?

2 MR. CARTER: Well, just a comment, Barbara. I  
3 don't know that anything you said that we would differ  
4 with or it comes as any surprise as far as this being a  
5 federal employee. I think everybody on the Board  
6 recognizes that this is going to be hired as a federal  
7 employee and there are, you know, certain accountability  
8 and review folks. And I think as we were developing the  
9 draft, the job description, at one point we put in there  
10 that the Board recognizes that the executive director  
11 will be an employee of USDA and as such will be governed  
12 under all applicable federal employment regulations but  
13 to the greatest extent possible, however, the executive  
14 director will report to the NOSB chair for day-to-day  
15 activities.

16 And you know, I know that in the private  
17 sector you have folks that have certain supervisory  
18 responsibilities but they can delegate, you know,  
19 certain portions of that and we don't need an MOU on  
20 this but, you know, part of the secret handshake, you  
21 know, procedures that we've got -- talk about delegating  
22 some of the things. Because really what this person is  
23 to be responsible for is to be working for the NOSB,  
24 with the NOSB chair and you know, to the greatest extent  
25 that that can be delegated on a day-to-day basis, I

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1 think is what we're looking for.

2 MS. ROBINSON: Well, again, I -- you know, I  
3 come back to my earlier statement; we will do it, Dave,  
4 but it can't be written down that way.

5 MR. CARTER: Right.

6 MS. ROBINSON: There's just no way for a  
7 federal employee to be supervised by a non-federal  
8 employee, but the job description will reflect and what  
9 I would envision a staff director doing is a staff  
10 director is at every one of these meetings and when you  
11 are developing your work plans and your priorities, that  
12 staff director's working hand-in-hand and that's sort of  
13 dictating the subsequent work priorities for that  
14 individual.

15 MR. CARTER: But we could delineate, though,  
16 in some aspects -- I mean, if this person's  
17 responsibility is to work with the NOSB or the NOSB  
18 chair, that deputy administrator, when performing the  
19 annual review would gather input from --

20 MS. ROBINSON: Absolutely, absolutely.

21 CHAIRPERSON KING: Okay. Do you have a  
22 question?

23 MR. RIDDLE: Yeah, you said -- yeah, you have,  
24 you know, our job -- draft job description that we  
25 submitted and then you have a job description for a

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1 board specialist and that are moving, you know, towards  
2 this, you know, final announcement in the job  
3 description that'll actually be announced. I'm just  
4 wondering if you're going -- if your plan is to, you  
5 know, seek any further input from the Board before, you  
6 know, in the drafting of that final announcement and job  
7 description.

8 MS. ROBINSON: To the extent that I can, I  
9 will, but understand that personnel has a lot to do with  
10 this. They write up the announcement and they have very  
11 -- I don't even understand it, Jim. We'll give them --  
12 in fact, we have a draft position description and what I  
13 want to do, as I said, I want to talk to personnel and  
14 when I find out how much sharing and how much  
15 interaction can we do with you to make sure that the  
16 right person gets this job and that, you know, that we  
17 get where you want to go. And I think -- in fact, you  
18 know, the draft position description that we have is  
19 quite detailed, is quite comprehensive and quite  
20 challenging.

21 So I -- all I need to do is find out, you  
22 know, does anybody in the Department have a problem --  
23 because I don't want to taint the selection process from  
24 the get-go, so I need to find out can I share this job  
25 description with you and show you, you know, here's what

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1 we're asking for. Believe me, I have no problem with  
2 getting your input, but you just can't believe that if  
3 you dot your i or cross your t the wrong way, that folks  
4 out there can make -- just make it really difficult in a  
5 selection process and you know, I just don't want to  
6 goof that up.

7 CHAIRPERSON KING: Kim then Goldie.

8 MS. DIETZ: I was one of the drafters of the  
9 document, the executive director job description and I  
10 did exactly that. I went onto the USDA web site and  
11 pulled up job descriptions and being that I'm an HR  
12 manager, I'm quite familiar with job descriptions and  
13 processes, so what we gave you we tried to mimic as  
14 closely as we could and in fact, we could go on their  
15 web site and look up this marketing specialist and  
16 probably have a pretty good idea of the job  
17 responsibilities, so we have the information in front of  
18 us if we want to get it.

19 One of the things in the job description,  
20 Barbara, just for clarification since we're on this, we  
21 weren't sure whether or not this employee would have to  
22 be housed in Washington, D.C. or whether it could be  
23 somebody that's in the industry working out of their  
24 home, so I want to pose that question because it's going  
25 to come up --

1 MS. ROBINSON: I know.

2 MS. DIETZ: -- and it's going to have a huge  
3 impact on members of the industry applying for this job.

4 MS. ROBINSON: My preference, Kim, and my  
5 great concern about this -- I have thought about this  
6 and -- but I believe that in order for someone to serve  
7 you well, I believe the person should work in Washington  
8 because I believe that person -- in order to serve you  
9 well; let's face it, many of the discussions and many of  
10 the disagreements that we have had over the past few  
11 years have been because we don't understand each other's  
12 systems because understanding how the government works  
13 is sometimes, you know, something of a mystery to folks  
14 who don't work in government.

15 I definitely believe that the learning curve  
16 of the processes of government is steep enough that you  
17 can't learn them when you are sitting in your house in  
18 Iowa or California. I believe you need to be in  
19 Washington and you need to work with, directly with the  
20 NOP staff. Now, that may change in the future, if this  
21 person, you know, stays with the position and over time  
22 it's -- you know, it's -- I've learned never to say  
23 never, but at the get-go, I would argue strenuously that  
24 that person needs to be in Washington. And I realize  
25 that will make a difference in the applicants, but I

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1 just think it's important, to be part of this process,  
2 to be part of this program office and you know, to  
3 understand how does OGC work, how does the Office of  
4 Management and Budget operate, how does our budget get  
5 done? I -- you know, all of the things, you know,  
6 understanding how other agencies work, it's just -- you  
7 can't learn it outside of D.C. or at least, it's very  
8 difficult to do.

9 CHAIRPERSON KING: Can we at least get him a  
10 window? Goldie had a comment and then George and then  
11 Rose.

12 MS. CAUGHLAN: Well, several of the things  
13 that I was going to inquire about have already been  
14 addressed in the last exchange, but I'm wondering,  
15 Barbara, in the past when we've discussed the placement  
16 of the whatever we call it, executive for the Board, how  
17 we've generally discussed it, it's been indicated that  
18 although this was mandated by OFPA, that this was  
19 unique, is that the viewpoint, is that, in fact, true?  
20 Are there any other FACA boards where any similar  
21 relationship -- I mean, you've mentioned here board  
22 specialist, you've mentioned --

23 MS. ROBINSON: It is not uncommon for advisory  
24 boards to have executive directors, no, that's not  
25 uncommon. The executive director -- and by the way,

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1       what do you want this person to be called, a staff  
2       director or an executive director? I've heard you use  
3       both, you know, the act says staff director, you guys  
4       have called it an executive -- what do you want? Let's  
5       settle on this.

6               MS. DIETZ: Executive.

7               MS. ROBINSON: Executive director?

8               MS. DIETZ: Executive director.

9               MS. ROBINSON: All right.

10              CHAIRPERSON KING: Yeah, that's what's in our  
11       description, anyway.

12              MS. ROBINSON: All right. Then to go on,  
13       Goldie. I was once an executive director to Secretary  
14       Glickman's advisory committee on Concentration in  
15       Agriculture and I was a federal employee. The executive  
16       director is typically a federal employee, housed in a  
17       federal agency, the agency that hosts the advisory  
18       committee. There are rare cases of -- we don't even  
19       call them advisory committees in the Department, we  
20       actually call them corporations. The CCC is an example  
21       of a corporation, Commodity Credit Corporation. The  
22       Federal Crop Insurance Corporation, the Rural Utilities  
23       -- it's not the exact name of it, but there is also a  
24       corporation there, that are created by the Congress.  
25       They actually have both private citizens -- I may have

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1 explained this to you once before -- they have some  
2 private citizens on the board, as well as federal --  
3 federal employees. For example, the Commodity Credit  
4 Corporation, the Board of Directors are all of the Under  
5 Secretaries of specific agencies or mission areas in  
6 USDA.

7           Those corporations may often have private  
8 staffs, but those are uniquely created by the Congress.  
9 The Commission on Agriculture, the 21st Commission on  
10 Agriculture you may have heard of that Barry Flinchbaugh  
11 was heading up, that was a commission. Again, it was  
12 created by the Congress; its authority was delegated to  
13 USDA. It actually had its own budget and it had a  
14 private staff, but you don't. You have -- you are just  
15 simply subject to FACA within USDA and so your advisory  
16 -- your executive director has to be federal. But no,  
17 it's not unusual at all to have executive directors for  
18 boards.

19           CHAIRPERSON KING: George then Rose.

20           MR. SIEMON: I was just going to ask a  
21 question about the interaction with the committees, you  
22 know, in the spirit of collaboration I think it's really  
23 important that whoever in the Department's working on  
24 issues like livestock work with a livestock committee.  
25 Is it envisioned that that will continue or is it

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1 envisioned that this new person will be the only  
2 committee support person?

3 MS. ROBINSON: Well, that person would  
4 probably have to work 36 hours a day --

5 MR. SIEMON: I know.

6 MS. ROBINSON: -- if he was going to serve all  
7 of the functions that the NOP staff have tried to serve,  
8 so I don't -- you know, I see that -- I see a primary  
9 task of this person to assist the Board and the  
10 materials process to making sure that there is the most  
11 rigorous process to making sure that you have the  
12 information that you need, that the petitions are done  
13 right, that the TAP reviews come back, you know,  
14 satisfactorily, that -- you know, because that is a  
15 major function of your Board.

16 But -- and while I see that person also  
17 working closely with the Board on its various other  
18 activities, you know, I don't see this -- I don't know  
19 that it would work to just, okay, well the NOP staff  
20 says okay, we hired a staff director, that's it. You go  
21 deal with the Board and we're off to do other things.

22 Well, now we've just destroyed the spirit of  
23 collaboration and probably thrown a wrench into any  
24 other types of efficiency that we were going to gain,  
25 you know, again the idea would be that we would add

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1 another resource who rather than, you know, the whole  
2 staff trying to say deal, you know, pick up -- they're  
3 trying to backstop each other and do various -- we would  
4 have a person identified who is speaking with the Board  
5 and then speaking with the staff and we would have a  
6 more efficient communication and working relationship  
7 with this person. But again, I guess I see this as  
8 something that, you know, we'll -- we'll work it out,  
9 we'll -- you'll talk to us. Once this person is hired,  
10 you know, we sit down and there will be the development  
11 of that person's work plan for the fiscal year and you  
12 know, and we'll go from there.

13 MS. KOENIG: Which, I guess, that brings me to  
14 my point in terms of the USDA hiring -- as I understand,  
15 when it goes through the -- the personnel takes that job  
16 description and what you say the qualifications are,  
17 they do that screen so even if you had somebody in mind,  
18 unless that description had a qualification that met  
19 their qualifications, they would never even reach you,  
20 so that's what I understand in terms of the process.

21 So as I look at that job description in terms  
22 of qualification, it's my opinion that I would emphasize  
23 probably that chemistry or ag background and drop the  
24 administrative qualifications if, in fact, the Board  
25 deems materials as an essential function or the function

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1 that maybe is not, you know, well-represented right now  
2 in the NOP staff, if that's the qualifications that are  
3 the most important because the way I read the  
4 description -- I guess that's my question to you, how  
5 would personnel, given those qualifications that you're  
6 looking at, how would they do that pre-screen? Because  
7 you have administrative and chemistry so would the  
8 person have to have all of those qualifications to reach  
9 you or do they -- would they only have one?

10 MS. ROBINSON: No. There's -- the way the job  
11 description is -- will be posted -- we'll probably do  
12 this through our, what we call our pair [ph] system,  
13 it's an electronic system and there will be a set of  
14 general questions that each applicant will have to  
15 address, you know, and they'll have to say, you know,  
16 whether they -- things that run the gamut of, you know,  
17 have you ever been convicted of a felony, you know,  
18 what's your educational background, where have you  
19 worked before, you know, have you ever been a federal  
20 employee? Those sorts of things. There'll be a series  
21 of general questions and then there'll be these  
22 questions we used to refer to them as the KSAs and we  
23 used to have our own interpretation of what that stood  
24 for, but it's knowledge, skills and ability, is what  
25 that means. And what we'll do is you -- there's where

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1       you put in your specific things that you want an  
2       applicant to really pay attention to.

3               For example, very often we'll put in a KSA  
4       that says, you know, understanding of organic marketing  
5       or you know, or the Ag Marketing Service, so we'll say  
6       understanding of marketing systems within the United  
7       States for agriculture. In this case, maybe we'd have a  
8       KSA that says familiarity or expertise in basic food  
9       chemistry or plant biology or something of that nature.

10              What happens is the person will be able to  
11       electronically say yes, I have some experience and then  
12       they'll be given the opportunity to elaborate on that,  
13       to write in for however many pages electronically they  
14       want to tell us about their qualifications in that area.  
15       Personnel then gets all these and they actually score  
16       them. I don't know exactly how they do it, but they  
17       score them and then they will present us a list of the  
18       folks who meet the minimum scoring and maybe like 80 out  
19       of a hundred points. So then we'll get that list and  
20       then we'll go through them all and then, you know,  
21       decide, you know, you sometimes -- sometimes you see the  
22       person that you think is the ideal candidate, you see  
23       them right there and call them up and offer them the  
24       job. More often, though, you call them all up and  
25       schedule interviews and bring them all in.

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1 MS. KOENIG: So that -- and -- so that  
2 knowledge base area's really where -- that's what I was  
3 saying, that the determination is made. I mean, I think  
4 that the job description that was provided kind of is a  
5 nice descriptive, but it seems like the input that we  
6 really need to provide is more in that knowledge base  
7 area or maybe we can't provide those, I don't know, but  
8 that's where you kind of -- you further define the  
9 qualifications you need --

10 MS. ROBINSON: Yeah, that's exactly right.

11 MS. KOENIG: So that's where the Board needs  
12 to --

13 MS. ROBINSON: Right.

14 MS. KOENIG: -- address it because just having  
15 a nice -- the other stuff is all kind of nice after the  
16 fact, it's --

17 MS. ROBINSON: Well, it's all teachable.

18 MS. KOENIG: Right.

19 MS. ROBINSON: It's all teachable without  
20 those specialized degrees. It's like the conversation  
21 you and I were having the other day over the e-mail  
22 system that I really regret -- well, I don't regret, but  
23 obviously my education is deficient because I skipped a  
24 lot of chemistry and biology courses and where I could.  
25 And now I realize, you know, I could've learned

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1 something, I guess. So yeah, you would like to -- there  
2 are things that are easily taught on the job. Chemistry  
3 is not one of those things, so if that's a specific  
4 emphasis that you want -- and we have some folks in our  
5 science programs that can probably help us draft a KSA  
6 geared toward that, but we strongly suggest if you've  
7 got some specific language you want to see, send it in,  
8 because we'll use it.

9 MS. KOENIG: Yeah, and I think that's really  
10 an important point because thinking about candidates  
11 that may be scanning the AMS kind of web site, they're  
12 not typically necessarily going to be your science  
13 individual, so I don't know -- or maybe people just do a  
14 general job search, but --

15 MS. ROBINSON: Well, you never know. I mean,  
16 there are -- there's maybe folks from FDA or EPA who are  
17 looking for different job opportunities. There are  
18 science-based agencies throughout the government, so  
19 there are -- there's a candidate of pool -- I'm sorry --  
20 a pool of candidatures, I'm sure, within the federal  
21 government and then, you know, you hope that there are  
22 folks, you know, graduate students coming out of  
23 universities, people at universities. Somebody who, you  
24 know, is interested enough in the topic area and has the  
25 expertise that, you know, we get some candidates to take

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1 a look at.

2 CHAIRPERSON KING: Quick follow-up and then  
3 Kim. Obviously you have the document we forwarded  
4 that's been approved by the Board concerning what we're  
5 calling the job description for executive director. In  
6 hearing this, you know, what you're calling knowledge,  
7 skills and ability, is there a need for the Board to  
8 have an action item that describes some of these KSAs,  
9 if you will, for lack of a better term, that would be  
10 involved in this?

11 MS. ROBINSON: It would probably be helpful.  
12 Again, we'll -- you know, I'll talk to personnel and  
13 I'll try to draft something up, but I also don't want to  
14 send a job announcement forward that doesn't meet your  
15 expectations, so I guess what I'm saying is yes, your  
16 input would be very valuable, but at the same time don't  
17 wait, okay?

18 CHAIRPERSON KING: Well, I'm just thinking  
19 this could be an addendum, if you will, to the original  
20 document, just as an attachment, very brief  
21 describing --

22 MS. ROBINSON: Sure.

23 CHAIRPERSON KING: -- the skill set that we  
24 hope to receive.

25 MS. ROBINSON: Sure. Okay.

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1 regulations, that would be an added plus. Experience in  
2 organic agriculture and/or organic food handling and  
3 then knowledge of organic certification and  
4 accreditation. So that was our little wish list in the  
5 person who's going to be getting this position. So we  
6 could certainly take that and put it in that KSA format  
7 somehow.

8 MS. ROBINSON: Okay.

9 CHAIRPERSON KING: Owusu.

10 MR. BANDELE: Yeah. I have two points. I  
11 think I see some problems in that required  
12 qualifications. Often times when you're putting out job  
13 descriptions, the fields are relatively related;  
14 agriculture, organic horticulture [ph] or related  
15 fields, whereas this one, it's really hard to tell where  
16 we are prioritizing those skills. I think, maybe, as we  
17 work in the draft more we have to maybe refine that  
18 because otherwise, it's a whole range of things lumped  
19 together as I see it. And second, I have a question,  
20 Barbara. I know like in academia sometimes if a  
21 position is open, there are informal situations whereby  
22 -- like students and other people who are not really  
23 decision-makers get a chance to interact with the  
24 applicants. Do you envision that type of scenario with  
25 maybe the Board chair?

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1 MS. ROBINSON: You mean prior to the  
2 selection?

3 MR. BANDELE: Yes.

4 MS. ROBINSON: That's what I'm going to ask  
5 personnel about, Owusu, is how can we get some  
6 information of the candidates to the Board so that we  
7 can make sure that you're as involved as you can be  
8 within the law for the selection, whether we -- that's  
9 why I said one thought I had was, you know, asking the  
10 applicants to submit short biographies as a way of  
11 introduction, you know, something that I can actually  
12 send to you so you can read them. You know, very often  
13 -- I'll be honest with you. When I read applications  
14 how -- even though I haven't met a person, how they put  
15 themselves forward on paper says a lot to me.

16 I mean, I have some certain pet peeves.  
17 Somebody can't bothered to use spell check or complete  
18 their sentences and in my program areas I require the  
19 ability to communicate well and do writing and so, you  
20 know, they don't generally fare well on my first  
21 reaction list. But I do believe that the way people  
22 communicate about themselves on paper is very valuable.

23 So that was one thought I had and then the  
24 second part is that I will ask personnel how do we get a  
25 group of candidates, how do -- you know, your schedules

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1 are impossible to deal with, so that's the other thing,  
2 is even if personnel says okay, yeah, you can do this,  
3 you can have a little tête-à-tête with the Board, it may  
4 be that you will have to say, you know, you're going to  
5 have to trust a group of you, a subgroup of you, some  
6 subset of you to, you know, whose schedules permit to  
7 come in and sit down and spend a day meeting with the  
8 candidates. I -- you know, I don't know. Again, those  
9 are the details, you know, the devil's always in them,  
10 but we can work through those; those are feasible. But  
11 we'll do what we can to get you the information and get  
12 you introduced to the candidates.

13 CHAIRPERSON KING: Thank you. I mean, that  
14 helps a lot, the update was very thorough and I  
15 appreciate that, but before we move on I have a quick  
16 question concerning the action on this for the Board  
17 based on Kim's reading of our current document. It  
18 sounds like we've covered a lot of the skill sets that  
19 you had mentioned.

20 MS. KOENIG: I think -- well, personally, I  
21 think you need to be pretty specific and you need to do  
22 some -- again, those -- the way that that knowledge area  
23 is going to eliminate -- is where the elimination  
24 occurs, you know, the first cut occurs, so I think that  
25 you need to really be pretty specific in that --

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1                   CHAIRPERSON KING: So my question is this, do  
2 we want to re-format that and --

3                   MS. KOENIG: Yes.

4                   CHAIRPERSON KING: -- and forward it on to NOP  
5 or --

6                   MS. DIETZ: Yes, we can do an addendum to it.

7                   CHAIRPERSON KING: Okay. So we have agreed to  
8 do an addendum. And Kim will take the lead.

9                   MS. DIETZ: Yeah, I'll do that. Just one  
10 comment on the -- Owusu, on the variety of  
11 qualifications, you know, whether it's science or  
12 administrative. We really didn't want to limit ourself  
13 [sic]. Our intention was to hope to try to get somebody  
14 from the industry to fill this position, so by limiting  
15 that means you're going to knock out a candidate, so we  
16 just need to keep that in mind, too, that not everybody  
17 has science degrees or food science or agriculture.  
18 There might be somebody with a degree in psychology or  
19 something that -- yet, they have a lot of experience in  
20 the industry, so it's certainly the will of the Board  
21 but we didn't, at the same time, want it -- narrow it  
22 down so much that we couldn't see candidates.

23                   CHAIRPERSON KING: Go ahead, Jim.

24                   MR. RIDDLE: Yeah, just one more detail,  
25 then. Kim, does it work for you to redraft that, get

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1 something around to us and us to finalize it at our next  
2 executive committee meeting? Will that work for you?  
3 So that's one month we're setting for ourselves, then.  
4 Okay.

5 CHAIRPERSON KING: Whoops. Okay, our next  
6 agenda item is the Materials Review Process and looking  
7 at how we're collaborating with NOP and how we're part  
8 of that, so I know earlier, I believe, Barbara, you had  
9 mentioned in your description of our sort-of ongoing  
10 working together, if you will, that petitions will be  
11 forwarded to the Board and then so on and so forth, so I  
12 want to throw that out as an example of how we're  
13 hopefully improving this process ongoing and of course,  
14 we're all aware of the forms that we use now and how  
15 that's helped the process, so I just throw that out to  
16 hopefully set the stage for a discussion on how we can  
17 further improve this process.

18 MR. NEAL: I think that over the course of the  
19 past four to five months, we've seen an improvement in  
20 the Materials Review Process. We've worked very closely  
21 with the Materials Committee and discussing petitions,  
22 issues concerning petitions. Matter of fact, we've even  
23 sent out all of the petitions to the whole Board for  
24 comment on those petitions to find out how such  
25 petitions met the categories of exemption under OFPA,

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1 any outstanding issues that the Board may have felt that  
2 needed to have been addressed by TAP contractors.

3 What we plan on doing in the future is making  
4 sure that to make -- to ensure that we get a full TAP on  
5 petitions, that we receive Board input on the petitions  
6 first. And if the Board is reviewing the petition in  
7 the respective committees, they see that there are areas  
8 of that petition that need to be further elaborated  
9 upon, that they will give us those questions in their  
10 specificity and we will supply those questions to the  
11 TAP contractor so that the TAP contractor can provide  
12 further scientific information on those particular  
13 questions so that the Board can have the information,  
14 the necessary information to make a well-informed  
15 decision.

16 The new, I think, element of the review  
17 process that we're going to implement is that once we  
18 receive the TAP reviews, we're going to supply those  
19 reviews to the committees and to the Board for a review  
20 of sufficiency, whether or not if those TAPS have  
21 addressed the questions adequately, the OFPA criteria  
22 adequately because we don't want to continue a situation  
23 where we come to a Board meeting and the comment's made  
24 well, you know, the TAP wasn't good, so we're going to  
25 defer on the material. We're going to try to address

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1 this up front. If the TAPs aren't sufficient, we want  
2 the Board to comment on it, on that up front. And we  
3 supply the TAP contractor with the information that  
4 needs to be further elaborated on. And that gives them  
5 the opportunity to make sure that the Board has the type  
6 of product that they need in order to make that well-  
7 informed decision.

8 After we're satisfied with that TAP, then  
9 we're going to make that publicly available and then the  
10 process is going to begin for the review of that  
11 material for a decision at the next meeting. I think  
12 that in terms of the Materials Review Process, that is  
13 mainly one of -- that's one of the main hang-ups. The  
14 other one is, I think, the issues surrounding what is  
15 synthetic, what is natural; the types of substances that  
16 can be reviewed under OFPA and those are discussions  
17 that are on the agenda for the next two days, two and a  
18 half days.

19 CHAIRPERSON KING: So am I hearing the need  
20 for another form? I'm kidding. But actually, I think  
21 you're right, that up front we need to know right away,  
22 do we actually have sufficient information to move  
23 forward and although I said that jokingly, I guess that  
24 -- that is a sincere question. I mean, do we need a  
25 check list? Is that the sort of thing we're looking for

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1 and do we think that would be helpful?

2 MR. NEAL: That -- let Kim address, first.

3 MS. DIETZ: Well, that was the first thing  
4 that came to my mind. I'm assuming Rosie has already  
5 thought of this, but really part of the TAP process in  
6 the past was that you can't just have subjective  
7 comments. If you're going to ask for feedback from this  
8 Board, you want it to be relevant, it should be relevant  
9 to OFPA, it should be relevant to what we're looking for  
10 in a TAP and not biased opinions. So we need to have  
11 some kind of document review form so that there is  
12 consistency. So we need to start working on that, it  
13 sounds like.

14 MR. NEAL: Sounds like a work plan item to me.  
15 And just to comment on that, too, though. Based on soy  
16 protein isolate from the last meeting, the Board had  
17 developed specific questions concerning that TAP. We  
18 supplied those questions to the TAP contractor, the  
19 contractor responded to those questions. As the  
20 committee reviewed the supplemental information, they  
21 saw further information that needed to have been  
22 identified. So we sent more questions to the TAP  
23 contractor; they supplied information with that. All of  
24 them were very objective, not subjective. And I do  
25 believe that the committee's satisfied with the

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1 information that they have received, but in response to  
2 your item, Kim, a check list probably should be  
3 developed.

4 CHAIRPERSON KING: Jim.

5 MR. RIDDLE: I think this sounds like some  
6 good improvements, especially this opportunity to kind  
7 of defer a TAP before it comes up at a meeting, the  
8 inadequacies, but that is dependent on that arriving in  
9 time for the Board to be able to really give it a  
10 thorough review or the committee to give it a thorough  
11 review.

12 There's been times, of course, when we've  
13 gotten them right before a meeting and then we find out  
14 these just are inadequate and -- the other concern of  
15 mine and I don't think it's addressed in the, you know,  
16 upcoming agenda item, per se, and that is the, you know,  
17 the Board submitted a couple letters earlier in the year  
18 about the Materials Review Process and in particular  
19 some concerns about the, you know, new compounds made  
20 from, you know, synthetic substances on the list and  
21 allowance of those compounds without going through the  
22 petition process. And I don't think that that's been  
23 resolved yet, that issue. So -- and I don't think we  
24 can or will resolve it right now. I'm just bringing it  
25 up as a placeholder and the same thing on that

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1 phosphoric acid and aquatic plant extracts issue. We  
2 just don't want to drop those, you know, from this  
3 consideration.

4 MR. NEAL: Those have not been forgotten.  
5 Those issues were raised. We're well aware of them and  
6 I think that for -- to a certain extent, they're going  
7 to be touched upon in this agenda item because the  
8 Materials Committee's looking at extraction processes.  
9 When does something -- when does a material become  
10 synthetic? And Rose's discussion she supplied about the  
11 synthetic process.

12 MR. RIDDLE: Um-hum.

13 MR. NEAL : You know, these are types of  
14 things -- does combining two materials render it having  
15 to be petitioned? These are things that are probably  
16 going to come out of the discussions that are going to  
17 be held here this week.

18 CHAIRPERSON KING: All right. Okay, if there  
19 aren't any other questions in a related matter, or if we  
20 could talk a little bit about the TAP Contractor  
21 Statement of Work, where we're at with that, that sort  
22 of thing.

23 MS. ROBINSON: We got presents.

24 CHAIRPERSON KING: Thank you.

25 MR. NEAL: What you're going to be receiving  
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1 now is the Final Statement of Work that was used in  
2 seeking out TAP contractors for this year's fiscal, for  
3 this fiscal year. As you guys know that we -- you know,  
4 we've talked about the process and we've tried to engage  
5 in the process as much as possible. We inform you that  
6 in seeking TAP contractors, the process is mainly  
7 handled out in Minneapolis by our Field Service offices.  
8 The funds that we had to operate with were \$300,000 and  
9 from the outset we were seeking to attain multiple  
10 contracts for conducting TAP reviews for the National  
11 Organic Standards Board.

12           Initially, we set out to, I guess, seek bids  
13 for the work that needed to have been completed, but due  
14 to the time constraints that we had, Minneapolis chose  
15 to initiate a Sources Sought Notice. And what that  
16 notice did is it sought interest in the -- in the  
17 specific work that was identified as needed to have been  
18 done by -- for the National Organic Program on behalf of  
19 the National Organic Standards Board. They chose to use  
20 this Sources Sought Notice to cut time. For us to go  
21 out and seek bids on the particular work may have cost  
22 us the ability to allocate the funds within the  
23 specified time frame. So in conducting this Sources  
24 Sought Notice, the generated a list of respondents and  
25 through these respondents they assessed the experience

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1 that all of the respondents had based on the Statement  
2 of Work that we provided to them.

3 After assessing all of the respondents, they  
4 identified respondents that had the best qualifications  
5 for conducting the work that we needed to have  
6 conducted. Out of the list of respondents that they  
7 had, there were two that they chose and they chose those  
8 two based on their experience and the fact that they  
9 appeared on the General Service Administration's list,  
10 meaning that they already had accounts to perform work  
11 for the government in the area specified. So what they  
12 did is they had a limitation of \$100,000 that each one  
13 of those contractors could receive. So with the two  
14 respondents that they had chosen, that meant that  
15 \$200,000 had been allocated, so that left \$100,000  
16 outstanding.

17 Based on a list of respondents that they had,  
18 they were not able to find a respondent from the all  
19 sources notice that they had used. They were not able  
20 to find a respondent that could perform the work to the  
21 level expected, so what they did is that they extended a  
22 \$100,000 contract to Virginia Tech, because Virginia  
23 Tech was already performing the type of work that we  
24 needed to perform. So that pretty much sums up the  
25 process in terms of the TAP contractors that we have.

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1 Oh, by the way, for one contractor, the name of the  
2 contractor is Woven Egg Consulting out of Latham, New  
3 York and Denver, Colorado.

4 CHAIRPERSON KING: Could you repeat that --

5 MR. NEAL: Woven Egg Consulting. Woven Egg --

6 UNIDENTIFIED SPEAKER 1: W-O-V-E-N?

7 MR. NEAL: Woven, right. W-O-V-E-N.

8 UNIDENTIFIED SPEAKER 2: Woven Egg?

9 MR. NEAL: Woven Egg.

10 CHAIRPERSON KING: Egg.

11 UNIDENTIFIED SPEAKER 2: Consulting?

12 MR. NEAL: Consulting.

13 MS. ROBINSON: Don't worry about the company  
14 name. It's the qualification, so --

15 MR. NEAL: Yeah, well.

16 MR. RIDDLE: From New York and Denver?

17 MR. NEAL: Latham, New York and Denver,  
18 Colorado. And ICF Consulting out of Fairfax, Virginia.  
19 Both of these have been identified as highly reputable  
20 companies that are specialized in performing the types  
21 of scientific reviews on substances for EPA, FDA and  
22 other federal agencies. Are there any questions  
23 concerning the process?

24 MR. RIDDLE: Yeah, but we don't know what they  
25 are yet. We just have to --

1                   CHAIRPERSON KING: So when will these two new  
2 entities begin reviewing?

3                   MR. NEAL: We have, based on the collaborative  
4 process and the Board's input on the List of Materials  
5 petitions that we received -- there are only really  
6 three that can move forward. What we're thinking about  
7 doing and we haven't finalized this yet, but sending all  
8 three to all three TAP contractors to see the type of  
9 work product that we receive from each, since we've not  
10 used two of them before and we have used Virginia Tech  
11 before, but that would give us a litmus test in terms of  
12 how they perform under the new Statement of Work that we  
13 have.

14                  MS. ROBINSON: It does mean spending a little  
15 bit more money in the short run, but we really feel that  
16 it's time to -- we need some gauge, we need to be able to  
17 get information back from these folks and these are all,  
18 of course, performance-based contracts and so we want to  
19 be able to know very early on in the game are we going  
20 to get the kind of performance out of these contractors  
21 that is satisfactory, so we figure what better way than  
22 to see how well they do, you know, up against each other  
23 for the same materials and -- okay.

24                  MR. RIDDLE: We're also hoping that this would  
25 help in developing a model for all report so we would be

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1 looking to take the best from all three to create the  
2 model for how all three vendors would do it in the  
3 future. And of course, we would be looking to you for  
4 input on that, as well.

5 CHAIRPERSON KING: Rose.

6 MS. KOENIG: One is just kind of a financial  
7 kind of question and then I was going to -- I'll ask the  
8 question later because I need to think about it, but as  
9 far as when you give that -- when you get a hundred  
10 thousand dollar award, what happens if it's not  
11 utilized? Are we wasting \$12,000 by -- I mean, it seems  
12 -- I guess out of the experience of researching soy  
13 protein isolate -- it's not rocket science, this stuff.  
14 I mean --

15 MS. ROBINSON: You're right, Rose.

16 MS. KOENIG: -- if you understand the  
17 categories --

18 MS. ROBINSON: It shouldn't be rocket science.

19 MS. KOENIG: What?

20 MS. ROBINSON: I totally agree with you. It  
21 should not be rocket science. I don't understand why  
22 the quality of the TAP reviews has been of the quality  
23 that it's been and you know, I read the Statement of  
24 Work and I'm not, I don't have a scientific background,  
25 but it seems to me that, you know, what we're asking for

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1 is rigorous research and a good letter to review and an  
2 understanding and comprehension of these materials and  
3 if you've got that kind of expertise you ought to be  
4 able to do it. Are we wasting money? I don't think so.  
5 We would've wasted the money had we not awarded the  
6 contracts. We had to -- you must obligate the funding  
7 by the end of the fiscal year; it simply reverts back to  
8 the Treasury. We don't get to save it for the next  
9 year. If the services are not paid for until they are  
10 rendered, if we have a bad contractor in the mix, they  
11 just won't get any future materials. There'll be  
12 nothing for them to bill against and -- you know, we're  
13 not going to throw good money after bad if the  
14 performance isn't there.

15 MS. KOENIG: I guess, you know, one suggestion  
16 rather than giving the same material to three  
17 contractors would be -- especially with the two new  
18 individuals and it probably wouldn't hurt with Virginia  
19 Tech and I don't know if it's -- if you would consider  
20 it kind of being too much Board input, but I would be  
21 happy, kind of, to work as the chair. And I know you  
22 don't like that direct relationship, you know, because  
23 it's caused issues in the past, so -- you know, as far  
24 as -- but I think that the relationship would be in  
25 terms of performing that work, not my opinion on a

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1 product.

2 MS. ROBINSON: You mean contacting the  
3 contractor directly?

4 MS. KOENIG: Well -- I don't want to contact  
5 -- I would like to see the -- you know, as people work  
6 on those criteria, that there can be some kind of  
7 quality check before we get that final product and that  
8 we can, you know, maybe through Arthur, look at those at  
9 some point so that, you know, in this first TAP contract  
10 you have little bars where you have to -- once a section  
11 comes, let us look at it and kind of critique it before  
12 they get too involved and finally have the final  
13 product. You know, so I think that would be a better  
14 way of going about it than giving the same contractor  
15 all the stuff because it's guidance it appears that  
16 people need if they have the technical background, it's  
17 just performance on -- and what -- the product we want  
18 rather than --

19 MR. MATHEWS: We -- I believe the Board and  
20 NOP, in the past year and a half have come a long ways  
21 with regard to Materials Review. And I say that because  
22 we have had problems with the quality of petitions, the  
23 quality of the reviews and I'm not prepared to say that  
24 this is the fault of a vendor or the fault of the person  
25 who filed the petition. I think this is something that

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1 can be shared by all of us. And I've spoken repeatedly  
2 over the last couple years about a global approach to  
3 the entire Materials Review Process. And I think we've  
4 made leaps and bounds in gains on that over the course  
5 of the last year and a half.

6 For example, we now have the check sheets that  
7 you use; we're developing where there's a better  
8 description of reasoning that you've made. Those check  
9 sheets then are what gets passed back to the vendor so  
10 the vendor now looks at this from the standpoint of  
11 well, this is what the Board needs so that helps them  
12 understand how to put the report together. And I think  
13 that works all the way back to the person who is filing  
14 the petition. So we've made a lot of progress in that  
15 area. The Statement of Work is another example of where  
16 we have enhanced previous work products to make it  
17 easier for the TAP reviewers to understand what is  
18 expected of them.

19 The comments that Arthur made earlier of well,  
20 we'll start sending the petitions out to you to look at  
21 it to see what you think about the petition, itself. Is  
22 the information that is needed there? Is there  
23 something about this product that you think is unique,  
24 that maybe something that isn't in the Statement of Work  
25 needs to be added in. I can also envision that we would

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1 send the petition back to the petitioner and ask them  
2 for more information. One of things that you're working  
3 on at this Board meeting is a document that is going to  
4 help us receive better petitions.

5 So I think we're making leaps and bounds. I  
6 think that I kind of favor the idea of putting the  
7 reviewers to the test. So we take one, two, three,  
8 whatever and send it out to them and say take your best  
9 shot at this and tell us, you know, do what you would do  
10 for us. We look at that and maybe we wasted some money,  
11 maybe they all come back with reports that are  
12 identical; I doubt it. But at least then we can look at  
13 what we're getting as work product. We'll know where we  
14 need to work with each of the vendors to bring them up  
15 to your expectations, to bring them up to our  
16 expectations.

17 If we give them each a different material to  
18 do, the problem I see with that is that each material  
19 has unique characteristics that one might find but  
20 another one not; but if we give them all the same  
21 material, they're all working with the same issues and  
22 hopefully, they'll all be picking up on the same things.  
23 Am I explaining myself clearly on that? I just think  
24 that if we're giving them all the same test, then we  
25 know whether or not they've met our expectations and

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1       whether they don't. That's where we help them do a  
2       better job for us.

3               MR. NEAL: And just to comment real quickly,  
4       it's more of a benchmarking procedure or process that  
5       we're using. This is common, very common amongst many  
6       industries. We're trying to set a benchmark so that we  
7       can improve on where we are currently.

8               CHAIRPERSON KING: Jim then Kim.

9               MR. RIDDLE: Yeah, I really appreciate you,  
10      you know, expediting the process and you know, having it  
11      as a priority and not losing that money, so I -- and I  
12      don't see this kind of test that you've set up as a  
13      waste of money. I think it could really avoid wasting  
14      money in the long run. So I -- you know, I think it's  
15      innovative and I think it could really help, you know,  
16      weed out or improve the -- at any rate, improve the  
17      quality of the work products. So I think that's a good  
18      idea. But I did want to come back to what Rose was  
19      saying as far as the Materials Chair, providing some  
20      input or direction. I know that when U.C. Davis and  
21      Virginia Tech first came on several years ago, that I  
22      think it was Kim had put together kind of an orientation  
23      packet for them. I'm assuming that you put together  
24      something along those lines this time, you know. I  
25      mean, you've improved the Statement of Work, we've got,

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1 you know, the forms. I mean, things are just better to  
2 go in that packet, but I would like more of a response  
3 or a clearer response to whether, you know, the  
4 Materials Chair has a role in that orientation, as well.

5 MR. NEAL: We have discussed bringing all the  
6 contractors together so that we can have an orientation  
7 and I don't see a problem with the Materials Chair  
8 having a role in that orientation process.

9 MR. RIDDLE: Um-hum.

10 CHAIRPERSON KING: Kim.

11 MS. DIETZ: Thanks. I also was just going to  
12 reiterate; I know that as past chair it takes a  
13 tremendous amount of effort to manage that process and  
14 it is an evolution and has been for quite some time. I  
15 also just want to remind everybody that with Virginia  
16 Tech we actually hired Richard Thore [ph] as a  
17 consultant to go in there and work side-by-side with  
18 them to get these TAP contracts correct and it still  
19 wasn't adequate enough. It's not just easy enough to  
20 put on a piece of paper, so whatever we can do to ensure  
21 success and not failure on this, whether it's, you know,  
22 Rosie's input or the Materials Committee ahead of time,  
23 I think is certainly worthwhile.

24 CHAIRPERSON KING: Rose.

25 MS. KOENIG: Yeah. I would just -- you know,  
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1 I'd just like the, I guess, the Materials Committee to  
2 have an opportunity to think about, you know, these pros  
3 and cons about, you know, whether the three -- I mean,  
4 it may be a good model, but let's -- let us think about  
5 it and give you that input as far as, you know, does  
6 that make sense, is that the appropriate approach.  
7 Because, I guess -- you know, and I need to think it  
8 over in my mind, but to me, my gut is is that no matter  
9 whether material X, Y or Z, you can assess quality. You  
10 don't have to necessarily be doing the same -- you know,  
11 it's just like an exam. You give students the same  
12 question, you know, many of them have the right answers.  
13 So it -- and I understand that approach.

14 We have a pretty descriptive idea and I think,  
15 you know, quality is something you can judge no matter  
16 what you give. But let us think about that a little  
17 bit. I guess it's my economic -- farmer. I just -- it  
18 seems like an awful lot of money to spend on one thing,  
19 you know. But anyway, let me think about that.

20 MR. MATHEWS: And we appreciate that. The  
21 whole idea behind this is to -- it's not a pass/fail  
22 type situation. What it is is that we're trying to  
23 identify where we may have weaknesses and I can envision  
24 that we'd have weaknesses from all three, where they  
25 don't -- where none of the people would totally meet all

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1 of our expectations and they would probably be different  
2 reasons. And what we're looking for is a way to early  
3 on in the process identify areas where we might have  
4 concern so that we could work with these people early on  
5 so that in the future the TAP -- the report would come  
6 in to us and we would send it out to the Board and the  
7 Board would say it looks good, let's go for it, rather  
8 than having the Board say well, they didn't answer this  
9 or I've got concerns about the way this was put  
10 together. So then we go back to them again. So I'm not  
11 saying that'll never happen, but what we're trying to do  
12 is identify ways up front so that we can make sure that  
13 we always receive a quality work product from all three  
14 vendors.

15 MS. ROBINSON: And I'd just like to add one  
16 more point on this before we move on or answer more of  
17 your questions. You make a very good point, Rose, but I  
18 guess our thoughts are that this is actually an  
19 investment that we're making, not an expense and when I  
20 look back over the past few years of the expense that we  
21 have incurred for work that you've been greatly  
22 dissatisfied with, I guess I would rather make this  
23 expenditure, this investment now and find out before we  
24 just, you know, go down the same path.

25 MS. KOENIG: I guess -- you know, as a  
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1 scientist, again -- the thing that's wrong with --  
2 what's flawed with your theory is that it assumes that  
3 the controls are always going to be the same in  
4 repetitive action, okay. So if you're using the same  
5 personnel and under the same conditions, yes, you  
6 probably could get a repeat but we're dealing with  
7 companies that may hire graduate student and then they  
8 hire a different graduate student. So you know, that's  
9 why the -- to me, the stop gap is at the quality  
10 control. What quality control do those contractors have  
11 so that they internally make sure that they, themselves,  
12 are doing that. I mean, I think it's great that the  
13 committee does a second quality control -- feedback at  
14 that, but that's, to me, the quality control at the  
15 company level is the most important because the  
16 variables change in companies. So -- and that's why I  
17 think that your theory is flawed, but again, I'll think  
18 about it. With due respect, but --

19 CHAIRPERSON KING: Dave.

20 MS. ROBINSON: Okay.

21 CHAIRPERSON KING: And then we'll wrap  
22 this up.

23 MR. CARTER: Yeah, just briefly. I guess,  
24 Barbara, I'll take a differing view because I actually  
25 think that that is a good upfront investment and I think

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1       yeah, Rose, you're right, you do have different  
2       controls. But I think when you do something upfront,  
3       you can get a pretty good sense of where the strengths  
4       and the weaknesses are and use that as some forward  
5       decision-making and save money in the long run.

6                   CHAIRPERSON KING: And for what it's worth, I  
7       like your proposal and think that it would be a good  
8       indicator, at least to start from. So also -- we can  
9       wrap this up? Good. Next up -- and you mentioned this  
10      earlier, so we may not have a lot to talk to about, but  
11      a lot of people have talked about the letter of  
12      understanding, if you will, with OMRI and how that's  
13      moved forward and so it is on the agenda and we wanted  
14      to briefly touch on that.

15                   MS. ROBINSON: I don't really have too much  
16      more to add than what I said earlier this morning and  
17      that is that in Chicago OMRI approached us and said, you  
18      know, we need to make sure, we'd like to make sure that  
19      the Generic Materials List and the National List are in  
20      complete synchronization. We agreed because we also  
21      know that we've had problems, we've had auditors out on  
22      sites with certifying agents who have said their  
23      reference for approving materials used by operations is  
24      the OMRI list.

25                   And we fully recognize that it's a far more

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1 user-friendly list than the National List. It's  
2 certainly been there longer than the National List and  
3 it is what certifying agents are used to, comfortable  
4 with and it's what they turn to. But neither OMRI nor  
5 USDA want there to be conflicting information out there  
6 and we also want a process, an auditable process whereby  
7 accredited certifying agents are referencing the  
8 National List as the source of their information about  
9 approved materials. Again, we have no problem with  
10 certifying agents using OMRI's Generic List, but the  
11 Bible, the source, the last word on the matter is the  
12 National List.

13 So we agreed that probably what needed to be  
14 done is that we need to take a look at OMRI's Generic  
15 Materials List and -- so we just agreed to do it and we  
16 said we would put it in a letter and that was the letter  
17 we shared with you before we sent it to certifying  
18 agents. And since we've done that, we've had a couple  
19 of phone calls with OMRI and the way it's been working  
20 was they would -- we let them select the priorities, the  
21 materials that they thought they had some questions  
22 about that they wanted to be sure that they were the way  
23 they described their use and their approval status and  
24 their generic list was copasetic with, you know, our  
25 interpretation on the National List. So we have gone

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1 through those.

2           Unfortunately for OMRI, basically, in a couple  
3 of the materials we said sorry, guys, we're just going  
4 to have to go back to the Board. And those are on the  
5 agenda, I believe, to be discussed. So -- and so we had  
6 a call -- I think the last call, actually, that we had  
7 was in late August. We did not have a call in September  
8 because we were going to commit to sitting down and  
9 actually looking through the whole OMRI Generic  
10 Materials List and picking out materials and we just  
11 frankly didn't get it done. So we postponed our  
12 September call.

13           But at any rate, that is the -- that's sort of  
14 the informal working relationship that we're trying to  
15 do and we made it very clear to OMRI that where there  
16 are questions that we cannot clearly answer based on the  
17 information that we've gotten from the Board, that we're  
18 bouncing them right back to the Board, that we are not  
19 giving them out an answer.

20           CHAIRPERSON KING: Jim then Kim.

21           MR. RIDDLE: Yeah, I don't disagree with  
22 anything you said and totally understand that the  
23 National List is what should be cited in inspection  
24 reports and in certification decision letters, or must  
25 be, you know, and not the OMRI Generic List. But the

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1 issue that's not being addressed here and I put this in  
2 my comments back on the draft letter is the status of  
3 the OMRI Brand Names List for formulated inputs and  
4 ingredients and there's, I think 46 accredited  
5 certifiers that essentially subcontract to OMRI to  
6 perform that service.

7           You know, each certifier has to, end of the  
8 day, make a determination if a formulated substance  
9 meets all the requirements of the National List and OMRI  
10 performs that service and I know that, you know, it's a  
11 big issue and you've got to get the Generic List squared  
12 away first, but what's really going to be helpful to  
13 farmers, processors, inspectors and certifiers is to  
14 know what the official status of a formulated product is  
15 once it has been placed on OMRI Brand Names List. So I  
16 don't know, you know -- interested in your comments on  
17 that.

18           MS. ROBINSON: I don't disagree with you, Jim.  
19 I think -- and I don't dispute the importance of it. We  
20 simply haven't got those resources right now to do that.  
21 And -- but we -- and we fully expect that OMRI is doing  
22 the due diligence in making sure that when they put a  
23 brand of product on their approval list that it does,  
24 indeed, meet the National List.

25           The questions -- and in fact, you know,

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1 they're not asking us to review materials on the Generic  
2 Materials List that are, you know, clearly there they  
3 are on the National List. They're talking about in many  
4 cases, kind of, they're not even materials. They may  
5 actually be a practice or something -- and they want to  
6 know that the way they've written it up, there -- it's  
7 not causing any confusion either with the regulatory  
8 language or with the Board's recognized recommendations  
9 or with the rule, the regulations, themselves.

10 So sometimes it's not -- I don't mean to imply  
11 that when we said we're going to review their list that  
12 we're okay, they've got hydrogen peroxide; do we allow  
13 that on the list? Well, we look on the list, yes, we  
14 do. So it's not that, it's more, you know, the types of  
15 things that are in the OMRI list, yeah, and annotations.  
16 And frankly, I just -- you know, I just don't envision  
17 us getting to that brand name review any time soon.

18 It's not -- I don't -- like I said, Jim, I  
19 don't disagree with you that it's important, but it --  
20 you know, unless you tell us that that's like a number  
21 one priority for us to redirect resources to, I think  
22 you have to rely on, you know, the integrity of OMRI's  
23 review process and their desire to serve the organic  
24 community as we do and as you do and you know, go from  
25 there.

1                   MR. MATHEWS: One of the other things you have  
2 to keep in mind though, Jim, is that while OMRI has a  
3 wonderful list of branded products, not all branded  
4 products that would qualify are on their list and so  
5 certifying agents need to keep that in mind, that they  
6 can't deny a branded product because it's not on the  
7 OMRI list, they have to be able to demonstrate that it  
8 doesn't comply with the NOP. So if the branded product  
9 is not on the OMRI list, it may still be eligible and  
10 it's incumbent upon the certified operation and the  
11 certifying agent to work together to verify whether or  
12 not that branded product that's not on the OMRI list  
13 does indeed meet the NOP. If it does, then it can be  
14 used. If it doesn't, well then obviously it cannot be  
15 used.

16                   MS. DIETZ: I'm going to take just a brief  
17 moment. I was one of the original founders of OMRI.  
18 There were five of us that sat around a room, I can't  
19 tell you how many years ago. Girls -- Brian and Emily  
20 in the back there will remember. But I think it's just  
21 a great achievement this industry is finally, you know,  
22 coming to this point where we're working with OMRI. Our  
23 intention, originally, was to merge them together and  
24 for OMRI to provide a tool to the industry where the NOP  
25 couldn't. So I think that's the goal. I want to

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1 acknowledge Brian Baker and Emily back there, along with  
2 Lynn Coody and a lot of people that have spent a lot of  
3 years working on -- with OMRI; for them, with them and  
4 other different fashions and I think it's great that  
5 we're finally merging the two together.

6 CHAIRPERSON KING: Rose, did you have a  
7 comment?

8 MS. KOENIG: Yeah. And I guess that the --  
9 more in terms of, you know -- the question comes down to  
10 OMRI has never stated that it's an inclusive list,  
11 that's never been an assumption of OMRI. It's a, you  
12 know, a volunteer kind of -- but what farmers need to  
13 know and I think what certifiers need to know is that  
14 they have used that list as a form of documentation, you  
15 know, when they go through the certification process.  
16 It's sort of that burden of proof. It's -- you know,  
17 they've used that as sort of like what Kim said. It was  
18 envisioned to be the tool to say okay, I've utilized  
19 this list. Someone has reviewed it because I, as a  
20 farmer, can't call every single brand name, you know,  
21 individual. And then it's up to me, if I decide not to  
22 use something on that list and I go and try to do that  
23 research on my own, but -- so what I think growers need  
24 to know and certifiers need to know and I don't think  
25 that that was necessarily clear in the letter, although

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1 I don't remember exactly everything that was in the  
2 letter, is that is -- do you recognize that? And that's  
3 what, I think OMRI is seeking, is recognition that that  
4 list is consistent with -- and it's a tool that the NOP  
5 recognizes as meeting the regulation.

6 MS. ROBINSON: Yes, but the problem that we  
7 saw happening, Rose, and the one thing that we said in  
8 the letter and that we still continue to say -- and I  
9 think it's been alluded to here, because OMRI's list is  
10 not inclusive -- what we saw happening on occasion was a  
11 certifying agent saying to an operation oh, I'm sorry,  
12 you can't use that material because it's not in OMRI's  
13 list.

14 And while that's not sufficient, it's possible  
15 that the material is on the National List or the  
16 material is allowed or the practice was allowed but  
17 simply because it wasn't on OMRI's list, the certifying  
18 agent was saying sorry, no dice, you can't use it.  
19 Well, we didn't want -- and the whole idea of this  
20 working relationship is to send out the same message.  
21 Again, it's the same message to both certifying agents  
22 and to the operations. The OMRI list is compatible, it  
23 is in sync, it is perfectly consistent with the National  
24 List and it may be the tool that you do turn to, but it  
25 is not sufficient for a certifying agent to deny the use

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1 of something simply because he couldn't find it on  
2 OMRI's list without also -- I mean, that's why I came  
3 back to the statement that the source of approval or  
4 disapproval is the National List.

5 MS. KOENIG: And I guess the confusion,  
6 though, again is, you know, and it comes down to what  
7 Jim was saying that the National List is a generic list.  
8 What farmers use are brand names, they don't use  
9 generic, so you know, I think the message -- you know,  
10 and again, I think that has always been clear, from what  
11 I understand, that certifiers tell farmers or even when  
12 I do trainings, that just because a product isn't listed  
13 on the OMRI list doesn't mean it's not allowed, but the  
14 burden of proof, then, is on you. It's your  
15 responsibility to find out. If they haven't voluntarily  
16 gone to that service, then you need to be proactive and  
17 find the information out.

18 MS. ROBINSON: That's right.

19 MS. KOENIG: But it doesn't discredit the  
20 list, but I think it's important for growers to know and  
21 the industry to know that that list is consistent  
22 because they are relying on that. And I think that's  
23 what OMRI was seeking and that the issue of other things  
24 is not really an OMRI issue, it's more of a  
25 communication issue between certifiers and your program,

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1 as far as what -- about these other products. But that  
2 is a different issue than whether the OMRI process is  
3 reflective and you know, I don't want to use the MOU  
4 idea again, because we've used Memorandum of  
5 Understanding, but that the NOP recognize it as being  
6 consistent with the Generic List.

7 MR. MATHEWS: We've issued the letter and what  
8 you're saying does not differ from what we're saying. I  
9 mean, the thing to keep in mind is that we are working  
10 with OMRI, slowly as it may be, but we are working with  
11 them, going through the Generic List. We're not  
12 expecting to find anything on the Generic List that  
13 isn't also on our list. What we do find, however, is  
14 that annotations on their list may throw a question our  
15 way that ends up in your lap with regard to their  
16 particular annotation.

17 So we're going to be working with them, where  
18 they've annotated something that isn't annotated on our  
19 National List, okay? There are annotations in their  
20 list that don't match up with our annotations. And so  
21 what we have to do is we have to work through those  
22 issues. Where there are unresolvable [ph] issues, they  
23 definitely will come to your plate and it'll be --  
24 that'll be the point at which you get involved in  
25 helping us reconcile the discrepancy that appears to be

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1 on OMRI's list. That, in itself, has a tendency to  
2 affect what is on the branded product list. I'm not  
3 expecting to find where products were allowed that  
4 shouldn't have been. I'm expecting more likely that  
5 we'll find products that should've been allowed or that  
6 may be able to be allowed in the future that might be  
7 blocked because of as to what the intentions of the  
8 Board are, which have led to an annotation on OMRI's  
9 list that, you know, might be rail [ph] material. And  
10 so it's those kinds of issues that we have to work with  
11 at this time and we are working with OMRI and you will  
12 be receiving some issues from us in concert with OMRI  
13 asking for you to resolve the differences.

14 CHAIRPERSON KING: Okay, I'm just looking at  
15 the time and the agenda. We have other NOP items  
16 listed. I'd like to cover that very quickly and then  
17 Barbara has a comment and then we'll take a quick recess  
18 for lunch and come back and talk about the directives  
19 and one question that's been asked of me by several  
20 individuals and Rick, I know you and I talked about this  
21 briefly on the phone, that is concerning the nominees  
22 for new Board members. And I understand that there are  
23 71 or 2, some odd nominees and so I wanted to just touch  
24 on that and find out sort of where we're at in the  
25 process.

1                   MS. ROBINSON: I was going to finish up with  
2 the -- these are the last of the NOP items to bring to  
3 your attention. So let's do the nominees. You're  
4 right, we have over 70 nominees, applications that have  
5 been submitted. The package is not finished being  
6 vetted through departmental agencies, the Office of the  
7 Inspector General, so the package hasn't gone to the  
8 Secretary yet. And as you know, the appointments don't  
9 expire until sometime in January, so she still has time  
10 to make those selections, but in any event, we did quite  
11 a wide outreach this year and as a result, probably got  
12 the largest package of nominee applications that's ever  
13 been received. So it's a lot of material to go through.

14                   And the last item to update you on is I sent  
15 you an e-mail last week. On October 5 we received a  
16 draft final report, audit report from ANSI, that's the  
17 American National Standards Institute. That is the  
18 audit of our accreditation process. And as is a normal  
19 course of an audit that's done within the Department,  
20 ANSI provided us with a draft final report of their  
21 findings, so -- now, we will review the findings and we  
22 have an opportunity to respond to the findings of the  
23 audit. ANSI will then take our response and determine  
24 whether our response satisfactorily meets the findings  
25 that they had issued or still fails to meet the findings

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1 that they have issued. And then they will issue a final  
2 report that says here's what they found when they  
3 audited, here's what they reported to USDA, here's how  
4 USDA addressed it and here is ANSI's response to USDA's  
5 review of the audit findings. We're not going to wait  
6 until we get to the final final, we hope that once we  
7 have our review and our response finished, we're hoping  
8 -- I think I said to you by roughly the third week in  
9 November, we will publish the ANSI audit report and our  
10 response to the audit findings on our web site and our  
11 future game plan, then, is to institutionalize this  
12 process.

13 Now, it may not be with ANSI. There are other  
14 audit bodies out there who, you know, maybe would do a  
15 superior job or I don't know, but what we want to do is  
16 work with the Board to figure out what's the right kind  
17 of game plan here. My thoughts are that we don't do an  
18 audit every year because that we would do something more  
19 like a biennial type of audit. And the reason I suggest  
20 that is simply that by the time you do -- you'll never  
21 get out of the cycle. You do the audit, you get the  
22 findings; the agency needs to -- presumably, the audit  
23 will find some things we need to correct, you know,  
24 you'll -- you try to get your corrections done and then  
25 you're right back into the audit. So I would think

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1 something like on the order of a minimum of 18 months,  
2 but a biennial type of audit process makes the most  
3 sense, giving the agency time to put its corrections in  
4 place and then the auditor to come back again and say  
5 you either got it right or, you know, well, you fixed  
6 that but now we've found something else.

7 Now, I have not read the entire audit report  
8 thoroughly. I have quickly read it and so let me give  
9 you the summary of the three kinds of -- the content  
10 that covers three areas and what they said. The content  
11 of the findings focus on three activities; documentation  
12 of procedures, basically. Do we have our procedures  
13 written down? Do we have the procedures manuals that we  
14 need? The audit found that our documentation and  
15 accreditation is lacking in several areas.

16 The second area of findings deals with  
17 communication of our procedure, primarily to our  
18 certifying agents. Again, the audit found the agency  
19 could do more in the area of communication with  
20 certifying agents. And the third area, the final area  
21 of the audit findings focuses on the actual audit and  
22 accreditation-related activities performed by the staff.  
23 And in that category the audit rated the staff exemplary  
24 in every case, highly professional, understanding of the  
25 tasks that they were performing, their interactions with

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1 the clients and their responses.

2 Now, the fact that the audit findings find  
3 that our documentation procedures are lacking is not an  
4 insignificant finding, by any means, but it is also not  
5 unusual. I certainly don't want to make light of it,  
6 but it is not an unusual finding in new programs because  
7 in the first place, you know, a new program and you're  
8 -- you know, you're trying to get up to speed quickly.  
9 But more importantly, I think, you don't have procedures  
10 written down for everything because you haven't  
11 confronted all of the situations, you know, that's where  
12 the real life experiences occur and you need to come  
13 back to the office and you need to sit down and write  
14 procedures for okay, how do we handle this? You can try  
15 to anticipate -- nevertheless, that's going to be the  
16 significant task at hand.

17 And as Rick has said to you earlier, we did  
18 hire Mark Bradley earlier this summer. For those of you  
19 who don't know him, Mark has a long history in the  
20 agency in the Ag Marketing Service. Mark Bradley  
21 actually introduced AMS to ISO 9000. I've known Mark  
22 since I was the Associate Deputy Administrator for the  
23 agency and I'm just thrilled that he's on the staff. He  
24 brings a tremendous amount of expertise to auditing  
25 processes, to documentation, to standard operating

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1 procedures. What we like about Mark is that he thinks  
2 like an auditor, he works like an auditor, but he lives  
3 like a regular guy. So -- no offense to any auditors in  
4 the audience. But anyway -- so we're really happy to  
5 have him on board and we're -- he's going to -- and Mark  
6 has a considerable previous experience in the Livestock  
7 and Seed Program area of AMS, which is performing the  
8 accreditation work for us, so he's quite familiar with  
9 it. As I said, he introduced the agency back many, many  
10 years ago, came to my office and said it's all about  
11 ISO. What is that? So we're confident in his abilities  
12 and that we'll move through this pretty well. So that's  
13 the update on the audit. And that --

14 CHAIRPERSON KING: Thank you.

15 MS. ROBINSON: -- concludes the NOP update.

16 CHAIRPERSON KING: Jim has a quick question.

17 MR. RIDDLE: Yeah.

18 CHAIRPERSON KING: Not quite yet, Barbara.

19 MR. RIDDLE: Yeah, real quick. Just want to  
20 make sure I'm clear that the ANSI audit only reviewed  
21 the accreditation program, it didn't look into Materials  
22 Review -- any of that other stuff that keeps NOP very  
23 busy, right? Is that -- I mean, it was a narrow focus  
24 on --

25 MS. ROBINSON: It was an audit on the  
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1 accreditation procedures.

2 MR. RIDDLE: Yeah.

3 MS. ROBINSON: Now, to the extent that any of  
4 the standard operating procedures that we must have in  
5 place are linked to things like delegations of authority  
6 and they are; you know, they would look at that and say,  
7 you know, have we done a good job there? Do we have the  
8 right documentation? But yes, Jim, it was --

9 MR. RIDDLE: Um-hum, yeah.

10 MS. ROBINSON: -- we contracted to do an audit  
11 of the accreditation procedure.

12 MR. RIDDLE: Um-hum.

13 MS. ROBINSON: And we want future audits to  
14 focus on that.

15 MR. RIDDLE: Um-hum.

16 MS. ROBINSON: Don't worry, there are all  
17 kinds of people out there ready, willing and able to do  
18 investigative audits of federal programs and --

19 MR. RIDDLE: Um-hum.

20 MS. ROBINSON: -- they do them all the time.

21 MR. RIDDLE: Yeah, and I understand what  
22 you're saying as far as wanting it to be a biennial  
23 process because of, you know, certifiers, especially the  
24 ones under the ISO 65 Program are in that continual  
25 audit review update cycle and it's like a treadmill;

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1 they'd never catch up. But I don't know if that is  
2 fully consistent with ISO Guide 61 to have a biennial  
3 process, you know, it's just something to talk about.  
4 But I did have a different question and that is on the  
5 list of applicants, it wasn't clear to me -- I know I  
6 asked about it a couple months ago and we were told  
7 during executive call that the list would be handed out  
8 at this, at the October meeting like it has in the past  
9 and just -- I'm not clear where that's at.

10 MS. ROBINSON: There won't be any list handed  
11 out at this meeting.

12 MR. RIDDLE: At this meeting?

13 MS. ROBINSON: No.

14 MR. RIDDLE: So it's still being vetted, make  
15 sure they're all --

16 MS. ROBINSON: Yeah, you know, people can  
17 apply to be a nominee, to be selected for this Board as  
18 they can for, you know, lots of advisory committees and  
19 you know, you want to make sure that, for example, if  
20 they're a producer, that they don't have an outstanding  
21 loan with the Department; it's those sorts of vetting  
22 procedures that you go through, that they're in good  
23 standing with the Department and with respect to all of  
24 its programs. That process hasn't been completed.

25 MR. RIDDLE: Um-hum.

1                   MS. ROBINSON:  There's a White House Office of  
2 Liaison that -- I think I said that, right?  That has to  
3 go through -- does a vetting of all these folks.  So  
4 it's -- it is premature.  Now, we -- that doesn't mean  
5 you can't write in letters supporting individuals,  
6 recommending individuals, as members of the Board.

7                   MR. RIDDLE:  But how do I know who they are?

8                   MS. ROBINSON:  I don't know.

9                   MR. RIDDLE:  I just want to be clear, all  
10 right, will that list be provided once the vetting is  
11 complete?

12                   MS. ROBINSON:  I don't know.  That decision is  
13 not made by me.

14                   MR. RIDDLE:  Uh-huh.

15                   MS. ROBINSON:  These are the Secretary's  
16 appointments, it is her call whether or not to give out  
17 the list of nominees prior to her selection.

18                   MR. RIDDLE:  But she approved that in the  
19 past?  I mean, it was provided, has been provided in the  
20 past --

21                   MS. ROBINSON:  She gets -- I'm not going to --  
22 the Secretary gets to do what she wants and make up her  
23 mind every year.  It would be really inappropriate for  
24 me to speak for her.

25                   MR. RIDDLE:  Right.

1                   CHAIRPERSON KING: George, quick comment and  
2 then we want to move --

3                   MR. SIEMON: Well, I just want to go back to  
4 my commercially available -- I'm sorry, you all said you  
5 were going to review that document? I'd just like to --  
6 in that review if we could get some feedback about the  
7 possibility of using other parts of the rule. I know it  
8 would take a real revision, but I'd just like to get  
9 your feedback on that because there's some issues that  
10 people have suggested that might be the solution, so I'd  
11 just like to add that, too. Because this deals strictly  
12 with processed food and I'm asking a question about the  
13 capacity -- move it beyond that.

14                   MR. MATHEWS: And elaborate a little more on  
15 feedback on what?

16                   MR. SIEMON: On using commercially available  
17 in the place that there was some discussion outside of  
18 NOP's process about using it, for example, to dairy  
19 replacements.

20                   MS. ROBINSON: You just lost me. Say it  
21 again.

22                   MR. SIEMON: Well, we all feel there's a need  
23 to clarify and unify the dairy replacements clause and  
24 so the question was could we use commercially available  
25 in that context?

1                   MR. MATHEWS: Oh, so in addition to clarifying  
2 issues on when is seed commercially available and when  
3 is -- or when is an agricultural product to be used in  
4 an organic product not commercially available, you want  
5 to add in additional commercial availability options for  
6 other things such as dairy.

7                   MR. SIEMON: Um-hum. Don't we have enough  
8 problems with commercial availability?

9                   CHAIRPERSON KING: You bet. It's never  
10 ending.

11                  MR. SIEMON: We have an equal amount of  
12 problems in the dairy world, too.

13                  CHAIRPERSON KING: If we could move on. First  
14 of all, I want to thank the Board members for being  
15 prepared for the discussion and NOP especially providing  
16 us as thorough information as possible and I think it's  
17 important to have that dialog. It's been brought to my  
18 attention -- I'm sure it's no surprise to anyone here.  
19 And first, I just want to recognize that we need to, you  
20 know, be cognizant of the fact that it is a public  
21 meeting and there are many people here to hear our  
22 conversations and dialog about the directives. And one  
23 of the points of clarity, I think, that many people are  
24 seeking, myself included, in our travels and  
25 conversations with people out there is, is exactly where

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1 are we at with the directives and what I'd like to do is  
2 just if we could have a -- just a brief conversation  
3 about this one issue, then we will recess for lunch and  
4 come back and perhaps have specific conversations about  
5 the directives after lunch. But that is what is the  
6 status of the directives? They were publicized and then  
7 they were rescinded and there's some confusion in the  
8 industry and so I think if we can sort of talk about  
9 that, that would be helpful for the industry.

10 MS. ROBINSON: Well, I -- you know, I'm --  
11 we've gotten the same questions, obviously. We've  
12 gotten letters asking, you know, saying that there's  
13 confusion and there's -- nobody knows what the status  
14 is. And the reply that we have given is that we have  
15 been awaiting the feedback from the Board and we have  
16 taken no compliance actions with regard to those issue  
17 papers and what we were under the impression that we  
18 were going to do was resolve the uncertainty at this  
19 Board meeting with an open discussion based on the  
20 recommendations and the papers that you drafted. We  
21 thought that's what this was going to do.

22 CHAIRPERSON KING: Well, we certainly don't  
23 object to that.

24 MS. ROBINSON: Okay.

25 CHAIRPERSON KING: I was just putting that out

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1 for those -- because there have been a lot of questions  
2 in the in-stream.

3 MS. ROBINSON: I know. I realize that.

4 CHAIRPERSON KING: How do we look at this from  
5 enforcement standpoint and what does this mean and so  
6 that's why you're --

7 MS. ROBINSON: Understandable.

8 CHAIRPERSON KING: -- hearing that question.

9 MS. ROBINSON: Understandable.

10 CHAIRPERSON KING: Not because we're confused  
11 about the process --

12 MS. ROBINSON: Okay. But see now, for this  
13 point right now, it doesn't matter. Anything that's  
14 been said between the time they were rescinded and  
15 today, because now we're all in the same room. I don't  
16 mean to say that those comments have no meaning, but  
17 here we are. Now we are at the point where we're going  
18 to have this conversation at -- beginning after lunch  
19 and this is where I thought -- this is what I thought we  
20 agreed to in June, that we were going to work this out  
21 and figure out all right, what've we got to do to make  
22 sure that there is no ambiguity and that everybody hears  
23 the same thing. And we would do that in a public forum  
24 where this meeting is transcribed and everyone who is  
25 interested from the public will hear it and we would

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1           come to a resolution. Now, it may be that in order to  
2           effect what we agree upon, we may have to do some rule-  
3           making changes, but we knew that going into this. But  
4           we're going to have that discussion today.

5                       CHAIRPERSON KING: Sounds good.

6                       MS. ROBINSON: Okay?

7                       CHAIRPERSON KING: Thank you. Well, make it  
8           quick, Rose.

9                       MS. KOENIG: Yeah, on that note, then, as far  
10          as our procedures or our process, because -- since I'm  
11          the first up in terms of the discussion after lunch; so  
12          the committees have presented these -- you know, our  
13          recommendations in terms, you know, address the  
14          directives and the recommendations, so do you envision  
15          you would want us to vote, you know, discuss, you know,  
16          present what our recommendations are and then  
17          eventually, by the end of the meeting vote on what our  
18          recommendations are and then what's the next step? Then  
19          would you incorporate those or do you look them over or  
20          are we supposed to be conversing and then we come to a  
21          final agreement here? And so just for the public to  
22          understand and for me to understand what the process is  
23          after we go through this discussion.

24                      MS. ROBINSON: Okay. You've drafted a  
25          statement on each of these issues and you sent them to

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1 us -- I've read them all, I presume the staff has read  
2 them all, too. As I said earlier, I thought that they  
3 were really good, constructive statements about each of  
4 the issues. So what I was assuming we would do -- and I  
5 don't really want to, you know, we can be flexible here.  
6 What I was assuming would happen is they -- whoever was  
7 responsible for the particular issue was going to be the  
8 spokesperson, would present that, present what you've  
9 written and your recommendations and then we just sort  
10 of have -- we'd have a give and take. And we would tell  
11 you okay, where we may have questions or where we may  
12 have some disagreement, but that we would just -- we  
13 would -- this is a working session; we would do this and  
14 we would do this now.

15 Let's not waste an opportunity to, you know,  
16 get these things settled once and for all. And maybe  
17 that say, you get all done and we decide okay, what  
18 we'll probably have to do is go back and write a  
19 proposed rule and that's exactly what we'll do and we'll  
20 be asking you to help us write that proposed rule, no  
21 doubt; help us, you know, with parts of it to the best  
22 that we can. But I thought that's what we were --  
23 that's kind of the process we were going to go through.  
24 You talk to us, we talk back to you; we just thrash it  
25 out and we come to a resolution.

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1                   CHAIRPERSON KING: You mean actually  
2                   communicate?

3                   MS. ROBINSON: Something like that, yeah.

4                   CHAIRPERSON KING: Say, that sounds great. I  
5                   think we need food and --

6                   MS. KOENIG: One statement. Because what's  
7                   confusing me is on the proposed rule aspect of it and  
8                   maybe I haven't researched all of the directives to the  
9                   capacity that I should have, but when I looked at those  
10                  directives, I thought those were interpretations of  
11                  policy, you know, how you're taking the rule and  
12                  interpreting it. I didn't -- I never looked at them as  
13                  proposals for rules change and I never saw them --

14                  MS. ROBINSON: They weren't, they weren't.  
15                  But what I'm saying is in some of your statements, what  
16                  you -- your recommendation would say -- and in fact, in  
17                  some of the statements it actually says change the rules  
18                  so that this is very clear. So that's what I'm talking  
19                  about proposed rules.

20                  MS. KOENIG: Okay, okay.

21                  MS. ROBINSON: I'm not talking about the  
22                  statements that were rescinded in April. I'm talking  
23                  about your recommendations to take an action.

24                  CHAIRPERSON KING: Okay. It's now 12:15.

25                  MS. ROBINSON: Lunch time.



1                   CHAIRPERSON KING: Well then, let's start  
2 there.

3                   MR. SIEMON: Okay. I think it would be good  
4 for you all to talk about the assignment we were given.

5                   UNIDENTIFIED SPEAKER: Use your mike, George.

6                   CHAIRPERSON KING: Use you mike.

7                   MR. SIEMON: Yeah, I'm sorry. The Policy  
8 Committee gave the different committees the assignment  
9 to go through and look at these directives and define  
10 what the issue was, compile any previous Board  
11 recommendations that are relevant to the directive and  
12 provide a recommendation for solving those issues. So  
13 it was a very clear assignment that we all went through  
14 and so the livestock document, the antibiotics is the  
15 first one and it -- that we're going to talk about --  
16 and it was on both -- it was titled -- oh, I've got to  
17 find that now. It was titled about antibiotics and  
18 the --

19                   CHAIRPERSON KING: Here's fishmeal.

20                   MR. SIEMON: -- the origin of livestock. I'm  
21 sorry, I can't find it now. Can you guys help me?

22                   MS. ROBINSON: The second tab on  
23 Tab 6, George.

24                   MR. SIEMON: No, I was just trying to -- it's  
25 "Livestock Healthcare Practice Standard Origin of Dairy

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1       Livestock." So it really was a little bit about both  
2       those subjects because it related to that, so -- are we  
3       going -- is it going to be up there on the board or are  
4       we going to --

5               CHAIRPERSON KING: Yeah, we had the Inerts --

6               MR. SIEMON: Do you want me to go through  
7       this, the different --

8               CHAIRPERSON KING: -- was initially scheduled,  
9       but can you -- yeah, she's got it up, so we're set,  
10       George.

11              MR. SIEMON: Okay. The issue was that the  
12       guidance docket came out allowing antibiotics when  
13       preventative practices and the other approved substances  
14       failed, as long as there was a one-year continuous  
15       organic -- prior to the sale of organic milk. That was  
16       the issue, that's what we're responding to. It's our  
17       opinion that that conflicts directly with 238C1,  
18       obviously the NOP differed with that. We felt that the  
19       same argument could've been used and we use the work  
20       misconstrue because it certainly wasn't the intent of  
21       NOP to allow other medications, which I think even --  
22       and came out that was possible, as well as possibly  
23       other feed sources. So that was another of the issues  
24       that came out of it.

25              To us, one of the primary things is the  
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1 confusion is linked to the dual-track dairy replacement  
2 interpretation, which those of us that are involved in  
3 Livestock Committee and the dairy industry, feels a  
4 foundation -- concern here with this dual-track and then  
5 -- I'm going to jump through -- and then, of course, we  
6 -- the -- we talked about the -- what NOP has decided  
7 about that in our recommendation, which are all listed  
8 down below here. And we just felt there was a real  
9 conflict between the 238, which prohibits producers from  
10 using antibiotics and 236. So the foundation is we just  
11 felt that 238C1 was violated by the guidance document  
12 that came out. You know, you want me to go through all  
13 the recommendations, the previous recommendations all  
14 the way down?

15 CHAIRPERSON KING: Well, whatever you think  
16 would be most helpful to sort of frame the discussion,  
17 is what we're hoping for.

18 MR. SIEMON: Well, NOSB has been very --  
19 pretty clear in all its recommendations. We just have  
20 here 98-4, but there's ones before that where we've  
21 always felt that there should be a unified standard for  
22 replacement and that antibiotic use is not to be used  
23 for animals on organic farms. We acknowledge that there  
24 was a problem with baby calves, there's still -- it's a  
25 debate in the industry about the antibiotic use there

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1 and so a couple of years ago we started a task force  
2 trying to get people to put forward materials that were  
3 alternatives to antibiotics that might be needed to deal  
4 with that issue.

5 I think there's been a lot advancement in the  
6 organic dairy trade to get away from antibiotics and the  
7 dependency on them for calves. So I don't know, you can  
8 read through that on here. You can see the different  
9 recommendations that have been done that pretty much  
10 have been for unified dairy standard and a pretty strict  
11 no-antibiotic use. It gets really confused because it  
12 -- this replacement clause mixes up with the livestock  
13 health on -- for animals raised on a farm. And so you  
14 end up with having two standards.

15 It gets very confusing, because for example,  
16 calves -- if you're going to allow calves from outside  
17 to come on organic farms, those calves might have had  
18 antibiotics, but then you're not allowing antibiotics on  
19 organic farms. So you get into a lot of different,  
20 what's called two track of a -- two tracks for dairy  
21 replacements and two different standards. So there --  
22 it really ties in with the origin of livestock. Our  
23 recommendations were fairly simple. We just think that  
24 238C1 overrides the logic that was used and that once a  
25 farmer is certified organic, all the animals must be

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1 treated organically and that they cannot use antibiotics  
2 and if they do, they must remove them from the farm.

3 That's -- and so we said that's our  
4 recommendation, to issue a clarifying statement -- have  
5 you all got that up there? You need to enlarge that, if  
6 you can, too. It's under Recommendations. So we had  
7 three recommendations. One's to write a -- clarify a  
8 statement that antibiotics are not allowed for once a  
9 producer's certified organic. Number two was to work on  
10 whether -- and we understand it might take a rule change  
11 -- the unification of the organic dairy standards and  
12 once they've entered that from then on that they're all  
13 treated the same. And number three, that we make  
14 livestock materials a priority. We all know there's  
15 some frustration about livestock materials moving very,  
16 very slow and we talked about that earlier.

17 So those are the three recommendations we  
18 came up; it's no real rocket science here and mostly, it  
19 goes on this 238C1, it's our interpretation of that  
20 versus what was put out in the directive. But the big  
21 issue to us is this getting to -- livestock. So  
22 Barbara, you said earlier that some of these are going  
23 to be rule changes. I'd like to identify that as one of  
24 the top issues we need to deal with because there's a  
25 lot of misconception that there's two standards out

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1 there, which in part, there are. And so we need to  
2 unify those standards once they're in the program.

3 I don't -- none of us mind that there's two  
4 ways to enter organic dairy production, but certainly  
5 the issue after that continues is inequitable. Anybody  
6 else on Livestock Committee? I went through that pretty  
7 fast, trying to get to the recommendation. We all went  
8 to the same restaurant, so we're all equally late here.

9 CHAIRPERSON KING: Jim reluctantly would like  
10 to comment.

11 MR. RIDDLE: Yeah, George, on the  
12 recommendation, I think, yeah, the first one is really  
13 important because of the confusion that occurred with  
14 the directive and then the retraction of it, that there  
15 be clarification that antibiotics are not allowed for  
16 organic animals or edible organic products once a  
17 producer's certified organic.

18 It's really reinforcing that 205-238  
19 requirement and yesterday I took part in a day-long  
20 meeting of a [sic] organic committee of a campaign  
21 versus sustainable ag and there were broad stakeholder  
22 representation there and we went through all of these  
23 various recommendations and one suggestion to help  
24 clarify that first point, you mentioned about whether or  
25 not that directive was limited to antibiotics and it

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1 might strengthen it or further clarify if we were to  
2 insert a few more words and that would read NOP needs to  
3 issue a clarification statement that antibiotics and  
4 other prohibited substances are not allowed for organic  
5 animals just to make it clear that, you know, any growth  
6 hormones or therapeutic hormones or any other prohibited  
7 animal drugs are not allowed, not just antibiotics.

8           So just a suggestion there to help clarify  
9 that language. I think it's really important that a  
10 statement be issued by the program on this topic and  
11 that doesn't take a rule change.

12           MR. SIEMON: Another issue that I don't think  
13 we caught, too, was the fact -- just a foundation issue,  
14 is the federal rule -- the rule has a stricter standard  
15 than OFPA for certain parts and so that's always -- when  
16 you get down to this new legalistic world, you get into  
17 a challenge how -- what the relationship is between a  
18 rule that has a stricter stand than OFPA and so that was  
19 a question I know was brought up, too, by the Department  
20 is that the foundation rule is only the 12 months versus  
21 -- the foundation law is 12 months and the rule has the  
22 life of the animal for some of the people and 12 months  
23 for some of the others. I think that's one of the  
24 reasons why they fell back to this 12 month rule in this  
25 antibiotic ruling.

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1       which I think means agrees.

2                   CHAIRPERSON KING: Well, just --

3                   MS. ROBINSON: That means agrees.

4                   MR. SIEMON: Okay.

5                   CHAIRPERSON KING: Just a question about the  
6 process, then. Will this be put on the web site for  
7 public comment?

8                   MS. ROBINSON: I don't think -- you want  
9 public comment on the guidance statement?

10                  CHAIRPERSON KING: On the recommendation.

11                  MS. ROBINSON: That no prohibited materials  
12 can be given to livestock unless they are approved by  
13 the Board?

14                  CHAIRPERSON KING: No. But what I was trying  
15 to do is understand George's -- or Livestock Committee's  
16 process on the recommendation, on these recommendations.  
17 If we're -- on number two, where we're talking about  
18 technical correction or a rule change.

19                  MR. SIEMON: No, that would take all public --  
20 I mean, it --

21                  MS. ROBINSON: Now, the origin of livestock.  
22 Changing the origin of livestock --

23                  MR. SIEMON: We're going to go there next.

24                  CHAIRPERSON KING: That's -- okay, I  
25 thought --

1                   **[Simultaneous comments]**

2                   MR. SIEMON: I was going to go to the number  
3 two point next.

4                   MS. ROBINSON: We can issue a statement that  
5 says no prohibited materials shall be given to livestock  
6 and still preserve their organic status. I mean, unless  
7 you approve the prohibited material. In other words, we  
8 agree with your statement.

9                   MR. SIEMON: Well -- but then we still have  
10 the second part of the -- and --

11                   MS. ROBINSON: Origin of livestock will take a  
12 rule change. That takes a regulatory change.

13                   MR. SIEMON: And so you said earlier that's  
14 what may come out of this, so --

15                   MS. ROBINSON: And that's what we'll do.

16                   MR. SIEMON: So --

17                   MS. ROBINSON: We'll proceed with  
18 rulemaking --

19                   MR. SIEMON: -- you know, we would very much  
20 like to see this, it's been such a thorny subject --

21                   MS. ROBINSON: Right.

22                   MR. SIEMON: -- that we take this as a  
23 priority.

24                   MS. ROBINSON: Right.

25                   MR. SIEMON: Another issue that came up in

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1 Chicago which I -- we didn't write in here about --  
2 clarification statement was that these are for animals  
3 born and raised on organic farms that we're talking  
4 about here and there was some confusion about those  
5 animals must be raised organically and you all confirmed  
6 that was part of the organic program.

7 MS. ROBINSON: Correct.

8 MR. SIEMON: And I'd like to see that in a  
9 statement, as well, because there's still a lot of  
10 confusion about that our there.

11 CHAIRPERSON KING: George, if I could, Kevin  
12 had a quick question.

13 MR. SIEMON: Oh, I'm sorry.

14 MR. O'RELL: It was just to clarify -- George,  
15 my concern was on the second recommendation where the  
16 Livestock Committee is requesting this as either a  
17 technical correction or a rule change and I thought I'd  
18 heard before that the NOP said specifically that this  
19 requires a rule change and if that's the case, then  
20 would we want to not say a technical correction?

21 MS. ROBINSON: It's not a technical  
22 correction.

23 MR. O'RELL: Correct.

24 MS. ROBINSON: It's --

25 MR. O'RELL: It is a rule change.

1 MS. ROBINSON: It is a rule change and we'll  
2 have to go out and public comment will be invited on  
3 that. What you want to do, my understanding is you want  
4 to break that to tiers. You want to break that apart.

5 MR. SIEMON: After they enter the organic  
6 dairy, we'd like to have a unified standard.

7 MS. ROBINSON: Right. That will take a rule  
8 change. We'll have to write that up and then take  
9 public comment.

10 MR. SIEMON: Kevin, if you're suggesting that  
11 we take out as either a technical correction preferred,  
12 preferable -- you know, we just haven't necessarily  
13 agreed that it wasn't a technical correction. There's  
14 just been disagreeance [sic] amongst the NOP, at least  
15 in myself, so we can take that out -- I just feel like  
16 we need to fix it, whatever's the best way to fix it and  
17 public comment is -- can be part of that, so -- I don't  
18 know we're passing this, we're just --

19 MS. ROBINSON: Right, you're not --

20 MR. SIEMON: We're pointing to  
21 Harold Ford [ph].

22 MS. ROBINSON: Yeah, you're not voting on this  
23 at this point.

24 MR. SIEMON: Yeah.

25 MS. ROBINSON: You're telling us -- my

1 understanding is that you -- this dialog is you  
2 communicating to us what you would like to see --

3 MR. SIEMON: Um-hum.

4 MS. ROBINSON: -- have happen, what your  
5 preferred outcome would be. And we are -- we're  
6 agreeing with you. I know you expected us not to, so  
7 that's maybe causing some problems here, but --

8 MR. SIEMON: No.

9 MS. ROBINSON: -- we're agreeing, so we'll  
10 work towards that. But the reason it -- I just want to  
11 say, a technical correction is something that you do  
12 when there, you know, it's clear that there was a, you  
13 know, a mistake in the rule, you know, a word out of  
14 place or you know, something --

15 MR. SIEMON: Wrong with letter order --

16 MS. ROBINSON: Yeah --

17 MR. SIEMON: -- number order.

18 MS. ROBINSON: -- I mean, something -- but a  
19 rule change that has economic impacts on businesses is  
20 not a technical correction. You're talking about a  
21 substantive change to the rule and so you know, you  
22 can't slip it into one of the materials dockets as if it  
23 was a technical correction and say okay, we took care of  
24 that little problem.

25 CHAIRPERSON KING: Andrea was up next and

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1       then Jim.

2                   MS. CAROE: I have two questions, George, one  
3       on the second sub-bullet for the second point. You  
4       indicate that the dairy producers and the certifiers  
5       have endorsed this recommendation. I was wondering if  
6       you have any data on that to show what kind of buy-in  
7       you've got from industry on this?

8                   MR. SIEMON: I don't have any data on that. I  
9       just know from all the discussion -- there's been a lot  
10      discussed about this --

11                  MS. CAROE: So --

12                  MR. SIEMON: -- you know, so I -- that's  
13      hearsay, I guess, if you want to say it. I mean, it's  
14      pretty well-known how it fell out, but there's some  
15      dairy producers don't agree and there's some ACAs that  
16      don't agree, but the vast majority of them do.

17                  MS. CAROE: So do you have -- I mean, I guess  
18      I was trying to get -- is this like a no-brainer, that  
19      everybody wants this or are we seeing a split decision  
20      somewhere or -- you know, is there a minority opinion on  
21      this or --

22                  MR. SIEMON: There's definitely a minority  
23      opinion, I believe. I'm not -- I'd have to ask around,  
24      but I think the statement's correct, the vast majority.  
25      I don't know what vast majority means, 70, 80, 90

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1 percent.

2 MS. CAROE: I think endorse was the word that  
3 kind of threw me as I thought when you used the word  
4 endorse that perhaps that you had some --

5 MR. SIEMON: No. There's been no --

6 MS. CAROE: -- more formalized data on that.

7 MR. SIEMON: Not unless -- not that I'm aware  
8 of, so no, I'd say that's just the feedback we've got.

9 MS. CAROE: The other question I have is in  
10 regarding to the sequencing of these recommendations.  
11 You indicated that calf hood medications are an issue,  
12 but that's like the very last item on here. If you  
13 don't deal with that first and then you take away  
14 allowances, is there going to be a problem? I mean, how  
15 widespread is this and are you --

16 MR. SIEMON: Well --

17 MS. CAROE: What I'm asking is do you have a  
18 recommendation of how these things would fall into place  
19 so that nobody gets stuck in a hole and -- without the  
20 tools they need in order to --

21 MR. SIEMON: Um-hum.

22 MS. CAROE: -- stay in organic production?

23 MR. SIEMON: Yeah. It's a good question.  
24 First off, a couple years ago we addressed this issue  
25 both in OTA and NOSB and we really put the word out

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1       there what medications are needed that are on the list,  
2       let's make them a priority, this is a problem and we  
3       really got very little response. So some we've already  
4       done the last bullet. And the first bullet was  
5       referring to the frustration that we got -- talked about  
6       today about the materials not coming out that we have  
7       passed.

8                        So I think both of those are in play right now  
9       and I'm not aware of that many calf-hood medications out  
10      there that haven't been brought forward, but we've  
11      called for them and if they're out there, we'd like to  
12      see them come forward and put through the process. So  
13      no, I don't think there's any -- this is a standard  
14      people are already working under right now, relatively.  
15      If you talk to the people in the community. I mean,  
16      there's a difference in the ACA, how they're endorsing  
17      this. But most of them are still not allowing  
18      antibiotics in young stock.

19                      CHAIRPERSON KING: Jim.

20                      MR. RIDDLE: Yeah, well first, I would like to  
21      respond to Andrea's question there because we've had  
22      drafts posted for both of the recommendations that the  
23      Board adopted. The first was for requesting an  
24      interpretation to support the, you know, one herd  
25      applies to both once they've been converted and then

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1 when we adopted that, then we were told that it would  
2 really take a rule change to address this, so then we  
3 redrafted as proposed rule change language; that was  
4 posted for public comment and then adopted by the Board  
5 and in both of those rounds of public comment, we  
6 received written comments and we received verbal  
7 comments, which are part of the transcript public record  
8 and we did not receive one comment in support of -- or  
9 you know, opposition.

10 So I think it is accurate to say vast majority  
11 based on the public comments that the Board received.  
12 But it's still going to go out and I'm hearing a  
13 commitment to pursue rulemaking on this issue and it's  
14 going to go out for a public comment again in the  
15 Federal Register. That will generate comments and if  
16 there are concerns or opposition, that would be, you  
17 know, the time to speak, to provide that data and the  
18 issue of calf-hood medications, I think, would be a  
19 logical concern to be raised in response to that  
20 proposed rule.

21 So I think, based on all of the information we  
22 have been provided, we do have support for this position  
23 and it's still going to go through a big filter to  
24 assess the impact. I guess in consideration of that, I  
25 would ask whether it would be the intent of NOP to

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1 publish as proposed rule or as interim Final Rule. I  
2 think this is a big issue. It's been an issue; we'd all  
3 love to see it get resolved. And it is creating  
4 disharmony, consumer confusion and I was just talking  
5 with a certifier over lunch who has, you know, some  
6 operations under both standards and the farther this  
7 goes, the harder it is to manage when you've got two  
8 standards being applied and in consideration, then, it  
9 certainly might warrant proceeding as an interim Final  
10 Rule.

11 MS. ROBINSON: Well, we would always prefer  
12 the most, you know, to get to the finish line quickly,  
13 too, Jim. But the Office of Management and Budget,  
14 which has to approve any rulemaking that we do has  
15 already told us that any rulemaking we do will be  
16 considered major and it will start as a proposed rule,  
17 so we tried that course and got our answer.

18 MR. SIEMON: I just want to clarify that, you  
19 know, what we're recommending is the May 14, 2003, as a  
20 starting place because the -- it says -- I'm just  
21 finding a fault with this writing here. "This will  
22 unify and clarify the standard for dairy herd  
23 conversion." It's not the conversion that we're trying  
24 to deal with here, it's about after they've converted --  
25 about dairy replacements, so I think the May 2003

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1 stands, but Jim, I find that wording to be a little bit  
2 confusing talking about conversion. It's about the  
3 organic dairy replacement is the primary issue here.

4 MR. RIDDLE: I agree. It's kind of a post-  
5 conversion.

6 MR. SIEMON: Yeah, it's just not quite written  
7 right. Okay. I'm eager to talk about a rule change and  
8 the timing of the next steps, because I know it's a long  
9 process. Is it going to have to be tied to other rule  
10 changes or can we go alone on this, just this alone?

11 MS. ROBINSON: As soon as we get it written,  
12 we can go. But I'm not promising you that you're going  
13 to get a rule change in, you know, a month.

14 MR. SIEMON: Yeah, I know. It's a long  
15 process.

16 MS. ROBINSON: But there's no need to -- in  
17 fact, I would recommend not tying this rule change to  
18 other rule changes because, you know, why -- because if  
19 you get conflicts in one area, it holds up the whole  
20 thing, so I think you're really better off to proceed --

21 MR. SIEMON: I agree with that.

22 MS. ROBINSON: -- with a single issue per rule  
23 change.

24 MR. SIEMON: I agree with that. Okay.

25 MR. MATHEWS: Are you contemplating providing

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1 us with some economic impact data that we were -- that  
2 we will need in order to make this rule change?

3 MR. SIEMON: Well, if you tell us what you  
4 need, we'll try.

5 MR. MATHEWS: Well --

6 MR. SIEMON: Make an assessment of it, so --

7 MR. MATHEWS: It's the kind of --

8 MR. SIEMON: It depends on which way the Final  
9 Rule's going to go.

10 MR. MATHEWS: Right.

11 MR. SIEMON: Now we've got the May 2003 as  
12 where we're starting from, you know, it's -- we want to  
13 unify standards, the primary thing here. If it goes one  
14 way, it's less of a burden, if it goes the other way,  
15 it's more of a burden for -- you know, so this standard  
16 is more of a burden for a certain group of people.

17 MR. MATHEWS: Right. I guess I would refer  
18 back to the decision tree that we've got, that you use,  
19 we use that would help by working through what it is  
20 that is the real problem, why it's a problem, who is the  
21 problem for, what are the different options for solving  
22 it, what is the option that you've selected. And then  
23 try and provide us with some economic information as to  
24 what is the impact on the farmers for taking this action  
25 of changing this rule because we're going to be held to

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1 a pretty high benchmark for making this rule change, not  
2 only by ourselves, but by the Office of General Counsel,  
3 by the Office of Personnel Management, so --

4 MR. SIEMON: But --

5 MR. MATHEWS: That's going to want us to be  
6 able to fully justify this, so we're going to be looking  
7 to you to help us fill in those blanks.

8 MR. SIEMON: Well, you know, the problem I'm  
9 having though is was that done -- and when you have  
10 these two standards, one group is disadvantaged over  
11 another group at this time. Did you do the economic the  
12 first time we did the rule? Because this is a real  
13 disadvantage.

14 MR. MATHEWS: The first time the rule was done  
15 there was an economic impact statement and there were  
16 discussions with other federal agencies, including ONB  
17 and we're going to have to go through the whole same  
18 process again, so we're going to be relying heavily on  
19 you for that information.

20 MR. SIEMON: If I could see the first work  
21 that was done -- because those are the -- usually, the  
22 smaller farmers are more impacted in anything that were  
23 affected previously, so yeah, I know that needs to be --  
24 and we'll look at the decision tree. And I'd like to  
25 have the Livestock Committee revisit their

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1 recommendation and see if this is their -- still this  
2 recommendation. Even though we put it forward, it's  
3 good to start to all over and make sure we're -- got  
4 fresh eyes on it.

5 CHAIRPERSON KING: Jim then Rose.

6 MR. RIDDLE: I guess -- I think we have a  
7 standing recommendation to work from as far as the  
8 language goes that's already been adopted by the Board.  
9 I don't see a need there to, you know, delay on that. I  
10 can see providing some assistance or input on some of  
11 the impacts of it, but at the same time, you know, we  
12 are volunteers. If we had an executive director, that  
13 would be a great thing for that person to work on, but  
14 you know, we do have public employees who have the  
15 expertise to do some of this analysis, so I think if  
16 there's somebody who's leading the charge, who's getting  
17 paid and then says, as advisors, can you help us with  
18 this or that, great. But I don't think it's fair or  
19 realistic to expect us to do that as part of the  
20 analysis.

21 MS. ROBINSON: Well --

22 MR. RIDDLE: And I don't think that the  
23 original regulatory impact statement in the Final Rule  
24 approached the impact of a dual standard for dairy  
25 conversion or dairy herd replacement stock. So we

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1 really don't have anything to work from there.

2 MS. ROBINSON: Well, we will have to do a reg  
3 impact analysis, that's true. And when the Final Rule  
4 was promulgated and the reg impact analysis was done,  
5 you know, the data that was available at the time is far  
6 less than it is today, even as skimpy as we still think  
7 the data is today. But we do have better knowledge of  
8 the numbers of dairy operations out there that are  
9 certified. We can and we will contact all of our  
10 certifying agents and we will try to get -- gather as  
11 much information in terms of average sizes of operations  
12 and that sort of thing.

13 It -- the issue, the -- when you do the reg  
14 impact analysis, if you are weakening the rule, relaxing  
15 the rule, in other words -- I shouldn't use the word  
16 weaken in this room. But if you're relaxing a rule,  
17 such as mending the National List, we consider that to  
18 be a relaxation of the rule because you are adding more  
19 options for producers. The burden to show the  
20 regulatory impact analysis is far less because you're  
21 not clamping down on people's businesses, you're giving  
22 them more options and so the burden of showing an  
23 adverse versus a beneficial impact is easier to do when  
24 you're relaxing the rule. In this case, you know, I  
25 can't conceive of this being a rule change that most

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1 people would not believe is a tightening of the rule.  
2 You're making the rule stricter by what is you want.

3 So in that case, in tightening up the rule,  
4 we'll have to be able to demonstrate that the benefits  
5 of tightening up the rule, the benefits of the change  
6 that we are proposing exceed the costs that the change  
7 will impose. And we'll look to, you know, we'll look  
8 for ERS data, we'll look for industry data, we'll -- we  
9 will come to you if you, you know, can help provide  
10 sources. There are many research organizations out  
11 there; we're not going to hold up a rule change because  
12 you do or don't get us the economic data that we want.  
13 But if you can be helpful, we would appreciate it.  
14 Yeah, it would speed up the process.

15 CHAIRPERSON KING: I think -- I just wanted to  
16 say something real quick, George. It's important to  
17 understand what our role is and so we appreciate that  
18 feedback and understand where we need to go with this  
19 and one of the things my hope is that comes out of the  
20 conversations today is takeaways, action plan, how are  
21 we going to approach this, are we on the same page?  
22 With that in mind, we, as usual, have limited time and  
23 we are scheduled for public input at 3:00 p.m., so we've  
24 got three other documents and so George, if you have  
25 some closing remarks, please feel free to set an action

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1 plan in place. I think we need to at least complete the  
2 circle here.

3 MR. SIEMON: Well, I think we're through with  
4 this one. Ready to move to the fishmeal? I mean,  
5 there's a lot to talk about the first one, but is that  
6 all right? Okay, well I've asked Becky to present on  
7 the fishmeal. She's kind of been our local -- or  
8 livestock fish expert.

9 MS. GOLDBERG: Okay. So the Fishmeal  
10 Livestock Committee recommendation is in the book under  
11 the same tab, just on the other side of the orange sheet  
12 of paper and the committee recommendation is obviously  
13 in response to the directive issued by the NOP  
14 concerning the use of fishmeal in livestock feed. The  
15 NOP said that fishmeal can be used as a protein  
16 supplement in feeding organic livestock without regard  
17 to the source or apparently the preservatives that might  
18 be used in the fishmeal. I will run through the  
19 introduction to our recommendation.

20 The committee acknowledges that fishmeal is a  
21 valuable source of protein and specific amino acids,  
22 clearly methionine in poultry feeds is a particular  
23 case. It's our view that fishmeal by itself, that is  
24 before any preservatives are added, is nonsynthetic. We  
25 also acknowledge that there's confusion about when a

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1 natural substance becomes a synthetic. We had a lot of  
2 discussion about this in the committee. NOP brought to  
3 us some examples of substances; well, they're not say  
4 natural substances, but substances where preservatives  
5 are added, for example, in vitamins and whatnot and we  
6 don't take them into account.

7 We know that fishmeal is highly perishable,  
8 it's also combustible and therefore usually contains  
9 preservatives, many of which are synthetic substances  
10 and therefore not approved for organic livestock  
11 production according to the relevant sections of the  
12 rule. We know that the OFPA allows for the use of a  
13 substance if it would not be harmful to human health or  
14 the environment. We know that conventional fishmeal  
15 can, at least in some instances, be produced from fish  
16 harvested unsustainably and there certainly are some  
17 data sets indicating that at least some fishmeal can  
18 have contaminants such as PCBs, dioxins and so on and so  
19 forth.

20 We state that organic fishmeal will not be  
21 available unless standards for wild caught organic fish  
22 and/or organic aquaculture are developed, in other words  
23 so that there are fish -- organic fish available to make  
24 organic fishmeal. And finally, we acknowledge there  
25 remains confusion as to when a feed supplement or

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1 additive becomes a feed to -- a 237A, requires a use of  
2 organic feed, but allows the use of nonsynthetic  
3 substances and substances listed on 205-603 as feed  
4 additives and supplements.

5 The definitions of feed, feed additive and  
6 feed supplement do provide definitive guidance as to the  
7 types of nutrients, carbohydrates, proteins, fats, amino  
8 acids, vitamins or minerals that are considered under  
9 each, nor do they establish limits on quantities allowed  
10 in feed rations. And we think this is a very important  
11 point. I'm not going to go through all the background  
12 statements in the recommendation. We reference an NOSB  
13 1994 livestock feed standard recommendation, a number of  
14 sections of the rule and of the OFPA, and some  
15 definitions from AAFCO and the Association of Plant Food  
16 Control Officials concerning definitions of natural and  
17 natural organic fertilizer.

18 I'd like to then move on to going through the  
19 recommendations and if necessary, we can go back to the  
20 background statements and to questions later. First of  
21 all, as we said in our introductory statements -- it's a  
22 little bit duplicative, but the Livestock Committee  
23 believes that fishmeal by itself is nonsynthetic. We  
24 also believe that fishmeal with synthetic substances is  
25 synthetic. We find that fishmeal preserved with natural

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1 substances and that would not be harmful to human health  
2 or the environment should be allowed as a feed additive  
3 or feed supplement for organic production in accordance  
4 with various relevant sections of the rule. We find  
5 that the use of fishmeal must comply with all applicable  
6 requirements of the Federal Food, Drug and Cosmetic Act  
7 is required by the rule.

8 Natural preservative ingredients are allowed  
9 in fishmeal, used in organic production. Synthetic  
10 preservative ingredients used in fishmeal must be  
11 petitioned, reviewed and placed on the National List in  
12 order to be allowed according to 205-105A. The status  
13 of fishmeal for use in organic aquaculture as opposed to  
14 livestock production will be considered during the  
15 development of NOP aquaculture standards and issues to  
16 be considered should include the sustainability of  
17 fisheries exploited for fishmeal and possible  
18 contaminants in fishmeal.

19 If NOP standards and definitions are developed  
20 for the production of organic fishmeal, then organic  
21 fishmeal must be used as a feed, feed supplement or feed  
22 additive for any organic livestock in accordance with  
23 205-237A, which requires the use of organic feed.  
24 Finally, and there are three items here that have more  
25 to do with general NOP policy and regulation rather than

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1 fishmeal itself. A clear, predictable policy needs to  
2 be developed concerning what incidental substances and  
3 livestock and crop production materials make an  
4 otherwise natural substance a synthetic; to clarify the  
5 distinction between natural and synthetic substances,  
6 the Livestock Committee recommends that the current  
7 definition of nonsynthetic or natural in the Final Rule  
8 will be revised. The definition's in the background  
9 section.

10 The AAFCO definition of natural and the EFCO  
11 [ph] definition of natural organic fertilizer should be  
12 considered in the revision process. We realize this is  
13 asking for a rule change and you know, that's a lot of  
14 work. Nevertheless, additional clarity, even by policy  
15 would be useful in helping people understand the  
16 difference between a natural and a synthetic. Finally,  
17 to clarify the differences between feed, feed additives  
18 and feed supplements, the NOP and NOSB should provide  
19 guidance concerning the types of nutrients,  
20 carbohydrates, proteins, fats, amino acids, vitamins or  
21 minerals allowed in each category and if there should be  
22 limits set on the quantities of nonorganic feed  
23 additives or supplements allowed in organic feed  
24 rations.

25 In other words, we think it's problematic if

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1 feed additives and supplements are used in large  
2 quantities. We can't really tell then whether they're  
3 really feed rather than say, feed supplements. So  
4 that's a lot of recommendations and as I said, some of  
5 them deal with fishmeal specifically and some of them  
6 are more general matters of policy to do with the  
7 difference between natural and synthetic and the  
8 differences in meaning of feed, feed additives and feed  
9 supplements.

10 MR. SIEMON: It's really the first six bullets  
11 is recommendation on fishmeal and I would think that the  
12 two on aquaculture needs to be forwarded just to the  
13 task force that we're forming. And really, the next  
14 one, a clear predictable policy is really one of the  
15 bigger ones that I think is a Material Committee charge,  
16 but that seems to be the underlying issue here is when  
17 does a natural become a synthetic, so I think that's  
18 something that the Material Committee needs to take on.  
19 So really, it's the first six that are recommendations  
20 here for the --

21 MS. GOLDBERG: That are specifically in  
22 response --

23 MR. SIEMON: To this directive.

24 MS. GOLDBERG: -- to the directive. And the  
25 others are issues we had to grapple with in considering

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1 this recommendations and we spent a lot of time on this  
2 recommendation, but we wanted to raise them for  
3 consideration.

4 MS. ROBINSON: Okay.

5 MR. SIEMON: Um-hum.

6 MS. ROBINSON: Ready for the Department's  
7 reaction?

8 MR. SIEMON: Sure.

9 MS. ROBINSON: Okay, the Department concurs.  
10 In fact, in reading your -- again, I do want to  
11 compliment you. These are well, though-out, well-  
12 articulated statements and we appreciate the hard work  
13 that you all put into putting these together. We  
14 certainly appreciate the fact that with respect to  
15 fishmeal, your understanding is similar to ours. The  
16 bottom line is that any synthetic added to fishmeal must  
17 go through the petition process and be approved by the  
18 Board in order for fishmeal with a synthetic to be used  
19 in livestock feed. Fishmeal is a natural, you concur.

20 It is nonsynthetic and fishmeal with a natural  
21 preservative or an approved -- otherwise approved  
22 substance is allowed. So the Department concurs. On  
23 the two recommendations that deal with organic  
24 aquaculture, we agree with George. We believe that those  
25 rightfully belong to the task force that should be

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1 created on organic aquaculture. And the last three, as  
2 we've discussed, we believe the NOSB should draft  
3 recommendations for the Department and we believe that  
4 the Board needs to have this discussion on what turns a  
5 natural into a synthetic and come up with some clear  
6 fence posts on that. But as far as the recommendations  
7 on fishmeal, we're fine.

8 MR. SIEMON: And then would -- are we going to  
9 take a statement to come out along that line or what's  
10 the process forward?

11 MR. NEAL: We have an additional comment. In  
12 considering when a synthetic substance is added to a  
13 natural, you need to take into consideration how does  
14 one petition -- and I guess at the same token, the term  
15 synthetic active is not defined in OFPA. And that needs  
16 to be defined because how does one petition a nonactive  
17 substance to be included on the National List, such as a  
18 preservative? A preservative is not delivering the  
19 effect, the intended effect to the animal. So this is  
20 one of the issues that Rose is going to be discussing,  
21 so these recommendations are going to impact a host of  
22 other materials that are already on the National List,  
23 so -- but it's going to impact a host of other  
24 substances on the National List, so these are some  
25 things that you want to think about.

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1                   MR. SIEMON: And this is an entry that's come  
2 up irregardless of the fishmeal, is about this active  
3 synthetic.

4                   MR. NEAL: Right.

5                   MS. ROBINSON: But in response to your  
6 question, George, we can put a statement on the web site  
7 that says fishmeal is a recognized feed supplement, a  
8 nonsynthetic. If fishmeal contains a synthetic  
9 substance, that synthetic substance must have been  
10 petitioned and approved by the Board and amended to the  
11 National List.

12                   MR. SIEMON: Great. Thank you.

13                   CHAIRPERSON KING: I think Rose and then  
14 Andrea had a question.

15                   MR. SIEMON: Okay.

16                   MS. KOENIG: It's not really a question, it's  
17 more to what Arthur was saying that one of the drafts  
18 that we'll look at in terms of -- it's called  
19 Interpretation of OFPA and the National List, does  
20 address that, you know, question that you all have  
21 already posed to us in terms of OFPA categories, you  
22 know, within that proposal and we'll get -- I don't want  
23 to spend a whole lot of time on it, but you know, the  
24 proposal suggests that the production aid category would  
25 be the category where that would fit rather than going

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1 back and you know, that there is actually a category  
2 with an OFPA that we should consider placing these  
3 because even though they're -- you know, I agree with  
4 your argument that, you know, the preservative is not  
5 the fishmeal active, but it does serve an active,  
6 functional role as a preservative. So it is -- it's not  
7 this concept of an inert. It is another additional  
8 agreement that has a function, so that's why we  
9 considered the production aid category.

10 CHAIRPERSON KING: Okay, Andrea. Quick  
11 question.

12 MS. CAROE: Yes. So I guess I'm -- you said  
13 that there's some confusion between supplements versus  
14 feed and clearly, the way I look at this, it's -- the  
15 fishmeal's being treated as feed, is it not? Because  
16 you're saying that at the point that we have aquaculture  
17 standards and there's organic fish, that you have to use  
18 organic fish for the meal, which would mean it would be  
19 a feed, not a supplement. And as far as I know, we are  
20 not petitioning all of the incipients in vitamins and  
21 other supplements, so is it a supplement or is it feed  
22 and are we following that on track? And the next thing  
23 I want to add before you answer that is if it is a  
24 supplement, shouldn't it be handled somewhat similar to  
25 the way we handle vitamins in processed foods which has

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1 levels that are appropriate for supplementing?

2 MS. GOLDBERG: Well, I think what you're  
3 getting at, Andrea, is something we highlight at the end  
4 of the differences between feed, feed additives and feed  
5 supplements are not defined and so it becomes very  
6 confusing what's what. In the context of livestock  
7 production, we are looking at fishmeal as a feed  
8 supplement. In other words, it's used to add amino  
9 acids or highly-digestible protein to feed typically at  
10 relatively low levels in an animal's diet. But it is  
11 legitimate to ask, particularly in the case of  
12 aquaculture standards, at what point does it actually  
13 become a feed, you know, if fishmeal is say, 30 percent  
14 of an animal's diet, that doesn't seem like a feed  
15 supplement anymore.

16 MR. SIEMON: It's not. So it's the level of  
17 feeding and of course, the rule that we're dealing with  
18 is 237A. This is being called the nonsynthetic  
19 substances and may be used as feed additive and  
20 supplements. It doesn't say -- anything to do with  
21 feed, so that's why if it is to be used as a feed, as in  
22 aquaculture, it's going to have to be organic. But again,  
23 that's jumping the gun to our task force.

24 MS. GOLDBERG: We are just dealing with the  
25 livestock standards here and that's really important to

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1 recognize.

2 MR. SIEMON: That's right. These other  
3 ones --

4 MS. CAROE: Okay, so your bullet point that  
5 says it will be required to be organic when we have  
6 aquaculture really doesn't apply because it's not a  
7 feed, it's a supplement.

8 MS. GOLDBERG: I don't see actually a  
9 bullet --

10 MS. CAROE: The one that starts, "If NOP  
11 standards and definitions are developed" --

12 MS. GOLDBERG: Right.

13 MS. CAROE: -- "which required the use of  
14 organic feed."

15 MS. GOLDBERG: If NOP standards and  
16 definitions are developed for the production of organic  
17 fishmeal, then organic fishmeal must be used as a feed,  
18 feed supplement or feed additive for any organic  
19 livestock. If there was organic fishmeal, then you  
20 could use it --

21 MR. SIEMON: Okay, I --

22 MS. GOLDBERG: But we don't have it at the  
23 moment.

24 MS. CAROE: But you said -- but you say it's  
25 required?

1 MS. ROBINSON: I would suggest you delay this  
2 until you have the task force on --

3 CHAIRPERSON KING: Yeah, this is --

4 MS. ROBINSON: -- aquaculture and wild caught.

5 MR. SIEMON: No, actually, I was wrong. This  
6 is the standard that says, "In the future, if there is  
7 organic fishmeal" -- this is almost is a commercially  
8 available situation, then you would have to use this, is  
9 what they're saying. So really, this is a distinct -- I  
10 didn't quite catch that earlier -- this is a distinct --  
11 another standard. But again, I don't think that's --  
12 just what we're dealing with today is the directive that  
13 came out about fishmeal and so I agree. This isn't  
14 about aquaculture, this is about a future -- when there  
15 is organic fishmeal, how does that relate to the use  
16 fishmeal for all feed uses?

17 MS. ROBINSON: You will have to change -- if  
18 you go down that row when you deal with livestock feed  
19 supplements, you're going to have to go back and change  
20 the rule again and say that oh, by the way, whatever we  
21 said about feed supplements, vitamins, minerals and all  
22 those things, now if they're organic, we're not going to  
23 let you just use natural, available substances. But I  
24 would really urge that you -- before you have that  
25 discussion now that maybe you'd wait and cross that

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1 bridge when you get to that bridge.

2 CHAIRPERSON KING: Yes. Thank you. I'm just  
3 being cognizant of the time and we just have about 15,  
4 20 minutes --

5 MR. SIEMON: Okay.

6 CHAIRPERSON KING: -- for two more documents.

7 MR. SIEMON: So I think the last thing is --  
8 because everything got -- from the NOP is we have to  
9 develop this policy on when does a natural become  
10 synthetic, so is that going to become the Material's  
11 duty now?

12 CHAIRPERSON KING: Well, I know that Rose has  
13 done some preliminary work on looking at when -- looking  
14 at synthetic versus nonsynthetic --

15 MR. SIEMON: You feel that's in play now,  
16 that's in --

17 CHAIRPERSON KING: I think the process has  
18 started. I think we have a lot of work to do. So it,  
19 you know -- and God forbid the two committees actually  
20 work together on an issue, but -- and I say that because  
21 we've just started to do that, I think, more and more  
22 and it's a really good thing, so anyway -- what  
23 did you --

24 MR. O'RELL: It could be three committees,  
25 too.

1                   CHAIRPERSON KING: It could be three  
2 committees. I think, Kevin, your point is valid. I  
3 mean, it could be the entire Board. Jim.

4                   MR. RIDDLE: Yeah, the very last point. The  
5 differences between feed, feed additives and feed  
6 supplements is something, I think, that the Livestock  
7 Committee should keep on the work plan and maybe we can  
8 up with a draft to help clarify that, you know, looking  
9 at the current definitions and how they're used in the  
10 rule, so that would be one to, you know, we're not  
11 changing anything like that, but I think we should keep  
12 that on the Livestock Committee work plan.

13                   CHAIRPERSON KING: Rose, you're up. Inerts  
14 Document.

15                   MS. KOENIG: Okay. Sorry that I was late. We  
16 were trying to -- we had just gotten our food when it  
17 hit 1:30, so -- so thanks, George, for going ahead on  
18 the agenda. I just want to briefly discuss the Inert  
19 Ingredients draft, particularly the background was at  
20 the directive stated it -- "The certifying agent and  
21 producer, after reasonable effort, contacting the  
22 manufacturer, EPA and other USDA-accredited certifying  
23 agents are unable to ascertain whether inerts in a  
24 pesticide are allowed under the NOP, the certifying  
25 agent will approve that part of the organic production

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1 system plan."

2 And that, essentially -- that statement or  
3 that kind of -- to me, it's more like an internal policy  
4 that was being directed in that directive, was the one  
5 that was the most trouble, some statement, I guess, for  
6 the committee. And we relied on, in terms of the  
7 background information, a lot of the OFPA and rule  
8 comments and sections of the rules that were appropriate  
9 in terms of dividing our -- devising a recommendation.  
10 And that document has been on the web site and it's in  
11 front of you, so I -- and in an effort to save time, I  
12 would just recommend that people look at that background  
13 information.

14 And we also had an Inerts Task Force in 2003  
15 look at, essentially, the same issue in terms of the,  
16 you know, the discussion issue regarding List 2 and  
17 well, specifically, List 3 Inerts. The recommendations  
18 that the committee came up with -- there was four and  
19 I'll just, I'll read those and then we can do the  
20 discussion from that. Number one, the NOSB encourages  
21 pesticide manufacturers who want to market their  
22 products for organic production to take advantage of the  
23 EPA Organic Labeling Program. They are encouraged to  
24 disclose all product ingredients on the pesticide label  
25 including inert or other ingredients as advised by the

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1 EPA.

2 And then two, pesticide manufacturers with  
3 products that contain allowed active ingredients and  
4 List 3 inert ingredients are encouraged to reformulate  
5 to comply with the existing regulation. Other options  
6 are to notify EPA of a need for expedited review and to  
7 petition the NOSB for review of that specific inert,  
8 List 3 inert. And note that petitions to the NOSB may  
9 take up to three years for regulatory action. However,  
10 we have looked at a couple, actually three different  
11 inert ingredients which are now -- have been recommended  
12 for inclusion on the list. So that has been a mechanism  
13 which manufacturers have taken advantage of, is going  
14 through the petition process.

15 Number three, since the EPA regulates the use  
16 claims, directions for use and composition of a  
17 pesticide product as a pre-market condition, the NOP  
18 should establish a functional line of communication with  
19 the EPA in order to provide EPA consistent information  
20 about organic standards and updates to the National List  
21 and to obtain advice from EPA on the status of petition  
22 materials. And some of that work has been done  
23 previously. Bob Torla [ph] has come forth to the NOSB  
24 and given presentations about kind of the programs that  
25 they have proposed.

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1           And then finally -- and then this basically,  
2           Statement 4 kind of addresses that -- the directive, at  
3           least the problematic statement which we picked out in  
4           the directive. "Certified agents who find that  
5           producers are reporting use of pesticide products with  
6           unknown inert ingredients should instruct producers to  
7           discontinue use immediately unless the ingredients can  
8           be verified as complying with NOP regulation.  
9           Discontinuation of use will be considered sufficient  
10          corrective action for use of pesticide products with  
11          approved, active an unknown inert ingredients."

12                 So really, the concept is -- you know, the  
13          difference, I guess, in our position versus the original  
14          directive is that the original directive said that there  
15          was a problem, there's an unknown and you can continue  
16          to use that unknown until we find out information. And  
17          that once we find out the information that there's a  
18          List 3 in there, then you have to stop and our  
19          recommendation says if there's an unknown and you can't  
20          determine it, that's when you stop. You don't allow in  
21          a farm plan continual use. So you do not approve in the  
22          farm plan.

23                 MS. ROBINSON: In other words, this is when in  
24          doubt, go without.

25                 MS. KOENIG: Exactly.

1 MS. ROBINSON: The Department concurs. That  
2 will only require a statement on the web site, as well.  
3 In case you were going to ask.

4 MS. DIETZ: Just to comment. Rose, you just  
5 -- clarification that the Materials Committee didn't --  
6 these things came out without the Materials Committee  
7 discussing them and so Rosie's done a tremendous job on  
8 drafting lots of documents in the midst of a hurricane,  
9 two, three, four hurricanes, and -- but the committee's  
10 -- we haven't actually discussed them and that's why you  
11 see on our committee vote minority opinion and  
12 conclusion, there aren't any because we just haven't  
13 discussed them, but she's done a great job with the  
14 documents.

15 CHAIRPERSON KING: Other comments?

16 MR. SIEMON: Yeah, I'm just wanting to make  
17 sure because remember two years ago we had the apple  
18 people here talking about how hard it was to get what  
19 inerts were in the substances, so I guess that's what  
20 Barbara just said, so if they can't find out what's in  
21 it, they can't use it.

22 MS. ROBINSON: That's right.

23 MR. SIEMON: That's what I just heard you say,  
24 so I just want to -- because we heard from public  
25 testimony that they can't get this information, so I'd

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1       like to hear what are we going to tell the farmers,  
2       then, when they can't get this information, don't use it  
3       or find some other one?

4                   MS. KOENIG:  Yeah, and I think, George, if you  
5       look at the -- well, the regulatory background and then  
6       the discussion -- it really -- the discussion elaborates  
7       on kind of the ways in which there has been some action  
8       taken to help address the situation, so although maybe  
9       all systems aren't perfect, there are mechanisms in  
10      place and resources that growers can utilize now and  
11      hopefully, the progress that has been demonstrated, you  
12      know, by EPA, by manufacturers who already have chose to  
13      reformulate, by people who have petitioned to get inert  
14      ingredients.

15                   I mean, we've shown and we've demonstrated as  
16      a Board that we will consider selectively adding -- if  
17      we review them.  So you know, I just think in this point  
18      of time and I think through the discussion items, we've  
19      clearly indicated that there are actions that have been  
20      taken since those, you know, initial issues that are  
21      moving in the right direction and that this policy  
22      reflects those recent actions and it really encourages  
23      those who have reformulated, it encourages agencies such  
24      as the appropriate technology transfer and the check  
25      sheet tools that hopefully we're supposed to, you know,

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1 improve communication and grower knowledge, so you know,  
2 I just think that if you read that discussion, hopefully  
3 it will be helpful in understanding the justification.

4 CHAIRPERSON KING: Other comments? All right,  
5 next we're up with the Scope Document, Dave.

6 MR. CARTER: Okay, the Scope Document, the  
7 policy development committee went through the Scope  
8 directive that was issued in April and particularly some  
9 of the areas where there's overlap with other  
10 committees, we attempted to work that through and  
11 dissect that a little bit, so let me summarize here  
12 briefly, there is one error in this document that I  
13 noticed as I was reviewing it, but on the background  
14 side, when it talks about the areas where the Scope  
15 Document addressed the -- where we went through and I've  
16 got it summarized on here.

17 Scroll down just a little bit there. In those  
18 areas there where we have five areas listed, there are  
19 actually six. The one that's omitted from there is pet  
20 food, but the areas that the Scope, the April 13 Scope  
21 Document addressed are personal care, body care  
22 products, cosmetics; secondly, dietary supplements,  
23 over-the-counter; third, fertilizers, soil amendments,  
24 manure and related products; fourth, fish and seafood  
25 farm-raised or wild-caught and then the fifth area was

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1 pet food and the sixth area was mushroom, apiculture,  
2 honey, greenhouse operations, green house products, et  
3 cetera. So what we tried to do was go through them and  
4 look at these in terms of each category. Again, as the  
5 others have done going through OFPA, the regulatory  
6 language, the preamble language, and trying to draw that  
7 through.

8 So the first two that we put together were the  
9 areas of number one, personal care products, body care  
10 products, cosmetics and other related products and  
11 number two, dietary supplements, over-the-counter  
12 medications, health aids and other related products.  
13 The areas from the April directive that where the  
14 program had kind of laid down their rationale is that  
15 number one, that these were areas that were under the  
16 jurisdiction of FDA and also affected by applicable  
17 state laws that accordingly, then, the products listed  
18 above may not display the USDA Organics seal or imply  
19 that they're produced or handled to USDA/NOP standards  
20 and that anybody using the seal would have until October  
21 21, 2005 to use existing labels and packaging. There's  
22 also on this one been some extensive input from the  
23 industry, particularly OTA and others, who made the  
24 observations that the -- remember first of all, the --  
25 let's see, you can go on down, Katherine -- I'm sorry,

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1 I'm giving the cliff notes version of this. Go on down  
2 a little bit further. Yeah, okay.

3 The OTA and others had specifically laid out  
4 three areas that number one is recognizing that it can  
5 be a complex task to develop, to apply standards that  
6 were developed for crops, livestock and food products to  
7 other ancillary areas. Number two, that given that  
8 first one, still that there is clear authority in OFPA  
9 over again a -- produced agricultural products that are  
10 included in those and that that authority should be the  
11 overarching factor to use in determining the scope of  
12 the organic program. And then the third, the absence of  
13 specific standards for such products such as personal  
14 care and cosmetics should not become a reason for  
15 allowing the organic claim to be used, to be made for  
16 such products and that until such standards are  
17 developed, USDA should not allow the organic claim to be  
18 made regarding these products.

19 What the Policy Development Committee then had  
20 put out for consideration is that NOSB and the industry  
21 groups, consumer groups, affected industry and other  
22 stakeholders solicit information concerning the  
23 certification, regulation and labeling of organic  
24 personal care, cosmetic, dietary supplements and  
25 specifically recommended that there be two of the

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1 following -- two questions be addressed; those being  
2 first, number one, should legislation be adopted and  
3 rules written to regulate the labeling of organic  
4 personal care, cosmetic and dietary supplements and  
5 number two, should legislation be adopted to prohibit  
6 the use of the word organic on products not covered by  
7 OFPA, including those areas. So trying to not only draw  
8 a fence around what could be labeled and how those would  
9 be handled, but also to create some clear boundaries to  
10 prohibit the use of organic in areas outside the scope.  
11 And let me just talk because I'm going to go through  
12 each of these and see questions or comments, feedback on  
13 that particular -- yeah, Jim.

14 MR. RIDDLE: Yeah, Dave. One thing you didn't  
15 mention there is the second paragraph under the NOSB  
16 consideration where we took the position and this agrees  
17 with prior statements from NOP, that if the word organic  
18 is used to identify an agricultural product or  
19 ingredient, then the agricultural product or ingredient  
20 must have been produced and handled in accordance with  
21 the Act and the regulation. So that's just kind of  
22 stating the obvious, but it needs to be stated here in  
23 this context.

24 MR. SIEMON: And that's in agreeance [ph] with  
25 the directive?

1                   MR. RIDDLE: Yeah. But the one issue that we  
2 really didn't tackle here in this part of the document  
3 is that use of the word organic on the principle display  
4 panel of these categories of products. The directive  
5 did and set a deadline for such use for removal of such  
6 claims. Is our -- is it our position, then, that we  
7 concur with that portion of the directive? I mean, I  
8 was asked about this yesterday during discussions and I  
9 do think we can't just ignore the issue.

10                   MR. CARTER: No, that's a good question. I  
11 don't want to speak for the entire committee, but you  
12 know, I think the sense of the committee was -- and  
13 under the previous Scope Document, it was that if you  
14 could certify a process in which you either complied  
15 with the 70 percent, the 95 or the hundred, you know,  
16 the hundred percent, that you would be allowed to use it  
17 and that was, I think, the major change, so --

18                   MR. RIDDLE: So I would -- I'll just propose  
19 this. I guess I'll move that we add a sentence that  
20 would follow that, sentence that I did just read, which  
21 talked about the ingredients or agricultural products,  
22 but -- and then specifically say if the word organic is  
23 used on a principle display panel, the label claim must  
24 comply with Sub-part D of the regulations which  
25 regulates that use of the hundred percent organic and

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1 made with organic claim. If it's going to be on the  
2 front panel, it has to be consistent product content to  
3 other organic products. So just propose that as an  
4 addition to this.

5 MR. CARTER: Okay. Been proposed. Mark, do  
6 you want to go ahead since there's something that's been  
7 moved?

8 CHAIRPERSON KING: Yeah, is there a second?

9 MR. CARTER: I would second.

10 CHAIRPERSON KING: Second.

11 MR. CARTER: Yeah.

12 CHAIRPERSON KING: It's been moved and  
13 seconded. Is there a discussion concerning Jim's  
14 amendment? Kim.

15 MS. DIETZ: Jim, I'm just -- I'm a little  
16 confused because the directive says that you cannot use  
17 the USDA seal. We all know that that's what the  
18 directive says, but currently, none of these products  
19 have to be certified, so if you put on there that they  
20 must comply with the labeling on the front panel, I  
21 mean, who's going to check that? I mean, it's just --  
22 that's a new concept. I would not discuss it, at least  
23 that I've ever seen from this group. Not that I'm in  
24 disagreement with it, but I'm just questioning -- you  
25 can say all you want, but if these products wouldn't

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1 have to be certified organic, then who's going to  
2 regulate that? It doesn't make sense to me.

3 MR. RIDDLE: Yeah, I'm just talking about  
4 product content. I'm not saying that they would have to  
5 be certified or not, it's just that the consumer sees  
6 those claims, hundred percent organic, organic or made  
7 with, that they match up with the same product content  
8 requirements as required for certified organic foods.

9 MS. DIETZ: Yeah. Again, just who's going to  
10 check it? I mean, we could say that, but it's not  
11 enforceable.

12 MR. RIDDLE: And we're not calling for a rule  
13 change or rule writing or legislation, we're throwing  
14 that out to the industry to take the lead in gathering  
15 that information, it's just our opinion that -- is that  
16 the label and product content should be consistent from  
17 aisle two to aisle four. Yeah.

18 MS. DIETZ: If they're honest, right?

19 CHAIRPERSON KING: Andrea.

20 MS. CAROE: Well, I think that is the final  
21 outcome that we all hope for, but I don't think it has  
22 place in this document. I think this document was about  
23 gathering the information and hopefully industry will  
24 work with the appropriate regulatory body of that PDP  
25 [ph] to reach that outcome, but I don't feel that it's

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1 necessary here, I don't think it's appropriate here. I  
2 think that is our goal and that's why we've done this  
3 exercise, but it's -- you know, it has no place in this  
4 document.

5 MS. DIETZ: Just one other comment. I've been  
6 involved in some other industries who are working on  
7 these standards and some of them are actually  
8 considering adopting different levels for their use. In  
9 other words, not 70 percent, it might be 50 percent or  
10 it might be 20 percent, so for us to limit ourselves,  
11 some of the standards that we -- that might come forward  
12 might make different label recommendations. I think  
13 that's what Tom's raising his hand about. So I wouldn't  
14 want to limit ourselves with that. I think that that's  
15 a given, but we might see standards that are different  
16 from what the food standard composition is.

17 CHAIRPERSON KING: Dave, go ahead.

18 MR. CARTER: Okay, speaking in favor of the  
19 motion, I think, though, the reason that I believe that  
20 this would fit within the document is it does establish  
21 a goal of what we want. Just because there are other  
22 things floating around in other areas as to what would  
23 qualify under made with organic or -- I think what this  
24 Board wants to do is say that our goal is that any other  
25 area that comes along ought to be consistent with the

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1 food standards.

2 CHAIRPERSON KING: All right, do we want to  
3 vote on this amendment? We need to be cognizant of the  
4 time.

5 MR. SIEMON: You know, I'm just a little  
6 confused about this whole -- there's a lot of -- should  
7 we deal with this one at a time, like personal care and  
8 this is an overarching statement that you're talking  
9 about now? This clause here. I mean, we're voting on  
10 just this -- the amendment to this paragraph or voting  
11 on the whole section here? I'm just a little confused  
12 by what we're voting on.

13 CHAIRPERSON KING: Jim, if you want to clarify  
14 exactly where you're going to insert this amendment  
15 we're voting on and then we're going to call the vote.

16 MR. RIDDLE: Yeah. And yeah, this vote would  
17 be just on the amendment that I proposed and I -- it's  
18 just a way of getting a clear sense of the Board is why  
19 I propose it as an amendment and exactly, it would fit  
20 under "NOSB consideration" on page four of this Scope  
21 recommendation, after the second paragraph. So there's  
22 some language that's in bold there --

23 MR. SIEMON: Um-hum.

24 MR. RIDDLE: -- and it would be inserted after  
25 that and it would read, "If the word 'organic' is used

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1 on a principle display panel, the label claim must  
2 comply with Subpart D of the Final Rule." It's just for  
3 consistent product content and that's just a sense of  
4 the Board.

5 MS. ROBINSON: It's also the sense of the NOP.  
6 The NOP has consistently made that statement.

7 MR. RIDDLE: All right, then it does make  
8 sense.

9 MS. ROBINSON: If it is an agricultural  
10 product and you are manufacturing a product that we do  
11 not cover the labeling of and you try to represent the  
12 agricultural ingredient as organic, as you've heard us  
13 say, it had better be certified organic, to these  
14 standards.

15 MR. RIDDLE: Um-hum.

16 CHAIRPERSON KING: Should we vote?

17 MS. DIETZ: I just want a point of  
18 clarification. Because we're not voting on this  
19 document, so do we even need to vote on your  
20 recommendation change? I mean, you're just --

21 MR. RIDDLE: Well, if everybody accepts it, we  
22 don't.

23 MS. DIETZ: I mean your Policy Committee could  
24 make the change and then bring it back and we actually  
25 formally vote on this recommendation, so I just don't

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1 want to confuse people that we've voted on one little  
2 sentence in a 15-page document and not on the whole  
3 document.

4 CHAIRPERSON KING: It's the will of -- what  
5 would you like to do, Dave, as PDC chair? How would  
6 you --

7 MR. CARTER: As PDC chair, no, I can take it  
8 as a consensus addition. That's fine.

9 MR. CARTER: Okay. It's been --

10 CHAIRPERSON KING: Is anyone opposed to adding  
11 it at this time? Just as a committee document? Okay.

12 MR. CARTER: So the third area was the  
13 fertilizer soil amendments, manure and related products.  
14 Again, very similar; the -- they're regulated by  
15 applicable state laws that they may not display USDA  
16 Organic seal and that they have until October 21, 2005  
17 and that anything that is organic has to be labeled in  
18 accordance to USDA standards. The area here where a  
19 related group has been looking at this is the  
20 Association of American Plant Food Control Officers or  
21 AAPFCO, I guess. And they, in August, had -- have under  
22 consideration the following amendment to its model  
23 regulation and that would set up two specific groups,  
24 T-63 [ph] for organic production and SUIP-28 [ph] that  
25 would then define how they would begin to look at the --

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1 at these particular materials or these fertilizer. This  
2 is not a final action by AAPFCO, but it's been referred  
3 to their labeling committee for further consideration.  
4 The Policy Development Committee recommends that the  
5 Board endorse a draft of that labeling definition for  
6 organic production as presented above. Comment on that  
7 particular --

8 MR. BANDELE: I just have one question.  
9 Failure to comply with this requirement may result in  
10 enforcement action, but currently though, that -- I  
11 mean, USDA could not do that, is that not right?  
12 Because it falls under state.

13 MS. ROBINSON: Right, but my understanding of  
14 this is that the applicable state organizations are  
15 going to do something that -- and we've actually had  
16 conversations with them about this that they would  
17 recognize a label that could go on these products that  
18 say, in effect, suitable for use in organic production.  
19 Now, is there an enforcement issue? Well, yeah, there's  
20 probably an enforcement issue in just about everything.  
21 If a certifying agent or an operation, you know, and  
22 then the certifying agent discovers that even though the  
23 product -- I mean, let's face it. There are producers  
24 out there, products, and they'll mislabel. You know,  
25 again it is up to the certifying agent and the certified

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1 operation to ensure that the products that they use do  
2 indeed comply with the National Organic Standards so  
3 that they're not putting on a product, a fertilizer or a  
4 soil amendment that's full of heavy metals or you know,  
5 whatever and hopefully, that there's also an enforcement  
6 action through the state regulatory agency, as well.  
7 And there generally is, folks. They are usually quite  
8 aggressive about fraudulent labeling in their respective  
9 states. And we've had this conversation before, so --  
10 so both AAFCO and AAPFCO would probably look into it, as  
11 would we.

12 MR. BANDELE: No, but I don't think the  
13 statement was aimed at like farm operators, it was aimed  
14 at the manufacturers and that was my point, that --

15 MS. ROBINSON: We would not take an  
16 enforcement action against a manufacturer, but again, I  
17 believe that the state attorney generals office and the  
18 state regulatory agencies would. They have a vested  
19 interest in protecting their industry.

20 CHAIRPERSON KING: Jim.

21 MR. RIDDLE: Yeah. And if accept this -- I  
22 guess we're going to, you know, take the whole thing on  
23 as a package once we're done here at some point; but I  
24 just want to make sure that, you know, part of this  
25 recommendation is endorsing the term "for organic

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1 production" that's being considered by AAPFCO's labeling  
2 committee and so if the Board endorses that term, we  
3 will need to follow up with a letter and work with NOP  
4 on that, hopefully, that you know, that we're on the  
5 same page and think they're headed in the right  
6 direction.

7 MR. CARTER: Okay. Did you have a question  
8 or --

9 MS. KOENIG: It's not really a question, it's  
10 I guess a statement, just something to think about or  
11 ponder. You know, as EPA -- this is sort of analogous  
12 in some ways to this EPA proposal on Inerts, you know,  
13 where you have another agency that kind of oversees an  
14 area and you're kind of working or liaising [ph] with  
15 them for this kind of labeling. I guess what I'm  
16 wondering, and I don't want to bring it up, I'm just  
17 again just saying is this any different than OMRI's kind  
18 of -- it's the same concept where you're entrusting an  
19 agency, whether it's private or public, to kind of take  
20 your regulation and utilize it. So my question is if  
21 there's a problem with the way a private entity -- you  
22 know, if we're going to examine how a private entity  
23 looks at our regulation, isn't it our job to look at how  
24 state organizations would look at the regulation? So  
25 that's my question.

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1                   MR. CARTER: I think you're right on that. I  
2 think what this is attempting to do, though, is to work  
3 with those entities that are already addressing these  
4 areas and just trying to develop some consistency with  
5 that rather than trying to develop a whole new  
6 framework, so -- okay, let me move on, then, to the  
7 fourth area, one of our favorite topics, which is Fish  
8 and Seafood, Farm Raised or Wild-Caught. Again, from  
9 the April directive that although off the provided  
10 coverage for organic aquatic animal standards, NOP has  
11 not developed standards. The products cannot use the  
12 USDA Organic seal and may not imply that they were  
13 produced or handled to USDA/NOP standards at this time.  
14 Operations producing products listed above had until  
15 April 21 to -- of 2005 to use existing labels and  
16 packaging.

17                   This is an area, then, where the Policy  
18 Development Committee wanted to transfer or delegate or  
19 plead and cajole another committee to take this on,  
20 specifically that in working with the Livestock  
21 Committee to endorse at least their recommendation to  
22 establish a new task force on standards for wild-caught  
23 and farmed aquatic animals. And just like the old, the  
24 previous task force, it would be structured into two  
25 working groups, one on wild-caught, one on farm species

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1 and these groups will develop recommendations for  
2 considerations by the full task force which will, in  
3 turn, issue recommendations to NOSB.

4 The new task force will be directed to take  
5 into consideration the report issued by the previous  
6 aquatic animals task force and subsequent NOSB  
7 recommendations and that we will try and make sure the  
8 task force, the committee, excuse me, will try and make  
9 sure the task force has expertise drawn from NOSB and  
10 throughout the industry and we'll take it from there.  
11 So this is something that will be brought forward here  
12 at this meeting to establish that task force.

13 The fifth area, which is the area of pet  
14 foods, a similar approach, although OFPA provides  
15 coverage for organic pet food standards, there are not  
16 any standards proposed for public comment at this time.  
17 The products, pet food products may not display USDA  
18 Organic seal, but any operations doing that at this time  
19 have until October 21, 2005 to use up their current  
20 stock. The discussions was that pet food is currently  
21 regulated by state laws and largely under AAFCO  
22 guidance. There's been suggestions that the NOP  
23 livestock feed regulations be applied to pet foods, but  
24 the NOP organic livestock feed regulations do not  
25 contain a provision for made-with-organic-ingredients

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1 labeling claims and do not permit certain amino acids  
2 commonly used in pet foods. Organic livestock feed  
3 regulations also prohibit mammalian or poultry products  
4 fed to mammals. The third area under the discussion is  
5 the pet food could be alternately certified and labeled  
6 under NOP requirements for human food products, but this  
7 would limit the use of additives and processing aids to  
8 natural substance approved for human foods and  
9 synthetics currently listed at 205-605B.

10 So what the NOSB Policy Development Committee  
11 recommends that we solicit comments for organic pet food  
12 and that we further recommend that the NOSB Handling  
13 Committee convene a pet food task force, again a task  
14 force that would include members of the Board as well as  
15 members of the public representing the organic trade pet  
16 food industry, feed control officials, academics and  
17 accredited certifying agents.

18 Comments or -- and then the sixth area, which  
19 was mushrooms, apiculture and honey, greenhouse  
20 operations and greenhouse products, hydroponic  
21 agriculture; these are areas that the NOSB has had --  
22 has addressed. These products from the April directive,  
23 the products may be certified to the existing NOP  
24 regulations which will be amended in future rulemaking  
25 to cover any unique production and handling

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1 requirements. NOSB has provided recommendations and the  
2 NOP is saying they'll publish at the earliest possible  
3 date through notice and comment rulemaking any  
4 additional standards needed for these commodities.

5 So the Policy Development Committee recommends  
6 that the NOSB agree with the NOP for a position that  
7 mushrooms, apiculture and greenhouse operations can be  
8 certified organic and the products, as such, can be  
9 labeled as organic and carry the USDA Organic logo. We  
10 point out that the NOSB adopted the support of an April  
11 25, 1995 greenhouse recommendation, a section entitled  
12 "Specialized Standards for Hydroponic Production in  
13 Soil-less Media" and that their recommendations stated,  
14 "Hydroponic production and soil-less media to be labeled  
15 organically produced shall be allowed if all provisions  
16 of OFPA have been met."

17 And though the issue has been discussed, the  
18 NOSB has not yet submitted a recommendation on  
19 hydroponic standards since a Final Rule was released, so  
20 we request that the Crops Committee place the item on  
21 its work plan and that rulemaking standards should not  
22 proceed until the NOSB has submitted a final  
23 recommendation. So these are the provisions that were  
24 brought to the Policy Development Committee and it  
25 doesn't list here what the vote was, but the vote was

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1 unanimous. I think there were two members absent at  
2 that time, so the vote was four in favor, zero against  
3 and two abstentions, so --

4 CHAIRPERSON KING: Thank you, Dave, and thank  
5 the committee. That's an extensive document and we  
6 appreciate that. Barbara, did you have a quick comment?  
7 I saw your little light come on. Anyway, Kim, looking  
8 at the agenda; we're going to take a quick break. We  
9 were scheduled from 3:00 to 5:00 for public input so we  
10 will start in 15 minutes. And what do we have? Let's  
11 synchronize our watches. Four after 3:00, so -- hold  
12 on, Jim. We'll be here at 3:20.

13 MR. SIEMON: I'm confused. Aren't we ending  
14 this exercise?

15 CHAIRPERSON KING: Can we get the NOP response  
16 in the morning?

17 MS. ROBINSON: The Department concurs with  
18 what you've written in your Scope response, yes.

19 CHAIRPERSON KING: The Department concurs.

20 MS. ROBINSON: The Department concurs.

21 CHAIRPERSON KING: So hold on. Before  
22 everyone leaves, one quick thing and then -- wait a  
23 second. Concerning public input; we scheduled it until  
24 5:00, we will extend it until 5:30 considering we're  
25 starting late. There are 35 plus people signed up. I

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1 would encourage some of you to perhaps consider, if you  
2 would, please consider moving to the second public input  
3 session as we only have five people signed up. So  
4 anyone willing to do that, we would greatly appreciate  
5 that. A number of people have industry commitments  
6 tonight and need to depart by 5:30 but we are willing to  
7 extend it until 5:30, so thank you. We'll be back here  
8 in 15 minutes.

9 \*\*\*

10 [Off the record]

11 [On the record]

12 \*\*\*

13 CHAIRPERSON KING: While we're looking for the  
14 lost Board members here, I would like to offer another  
15 opportunity for those signed up for public input to  
16 actually not give your input today and do it on the  
17 public input session number two, which is Thursday  
18 morning. If there are volunteers and you would like to  
19 come forward at this time, I would greatly appreciate  
20 that. Okay. So now that we've recovered from that  
21 stampede, I have no other choice at this point but to  
22 limit your comment time to three minutes. We have 38  
23 people signed up and there are a lot of industry  
24 commitments tonight, so it would be mathematically  
25 impossible to do the five minutes, so you have three

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1 minutes -- yes, a quick question.

2 MS. WIRE: I'll go on Thursday.

3 CHAIRPERSON KING: Okay. And what's your  
4 name?

5 MS. WIRE: Gwendolyn Wire [ph].

6 MR. RIDDLE: You get the full five minutes on  
7 Thursday.

8 MS. WIRE: That's right. If I can't do it --

9 CHAIRPERSON KING: We may even be able to give  
10 you more than five on Thursday and we might even serve  
11 coffee.

12 MS. DIETZ: Just for protocol, I do have a  
13 timer and I'll set it for three minutes so everybody  
14 ensures they get the same amount of time and that at one  
15 minute you'll see a one minute sign and you'll have one  
16 minute to finish up. Okay?

17 \*\*\*

18 [Off the record]

19 [On the record]

20 \*\*\*

21 CHAIRPERSON KING: Okay, thank you all very  
22 much. We've had a few people move. We're still going  
23 to stick to the three minutes. We had four move. That  
24 still puts us at 34, but I appreciate that, so first up  
25 is Debra Brister.

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1 MS. BRISTER: Okay. Good afternoon. I'd like  
2 to thank the Board for allowing me the opportunity to  
3 speak to you today. We were going to give a PowerPoint  
4 presentation. I was informed that we were unable to do  
5 that, so did we make photocopies of the PowerPoint  
6 presentation for each of you that should -- you should  
7 each have one of those copies. Additionally, you should  
8 have a National Organic Aquaculture Work Group  
9 participant list and finally, another handout is the  
10 National Aquaculture Act of 1980. So I'm going to go  
11 through the PowerPoint presentation. You may take a  
12 look at your handouts as I go through it.

13 My name is Debra Brister and I'm a research  
14 fellow at the University of Minnesota's Institute for  
15 Social, Economic and Ecological Sustainability. As some  
16 of you know, I've been involved in the process of  
17 developing standards for organic aquaculture for some  
18 years now. I've convened national and international  
19 workshops on organic aquaculture and served on the first  
20 NOSB Aquatic Task Force Aquaculture Work Group. I come  
21 before you today as a co-chair of the recently formed  
22 National Organic Aquaculture Work Group, or NOAWG, and  
23 would like to provide the Board with some brief  
24 information about our work group, who its participants  
25 are, how it can assist the NOSB and provides some

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1 initial recommendations as you consider the reformation  
2 of the -- of another NOSB Aquatic Task Force.

3 The National Organic Aquaculture Work Group  
4 represents an alliance of approximately 80 aquaculture  
5 professionals, related parties with a strong interest  
6 and goal to assist in developing workable, science-based  
7 organic standards for aquaculture production and  
8 handling practices. Our work is aimed at proposing  
9 organic aquaculture standards for rulemaking procedures  
10 under the Organic Food Production Act that are  
11 consistent with the NOSB principles of organic  
12 production and handling. We believe it's important to  
13 develop science-based standards that are appropriate for  
14 aquaculture. Adequate sound science exists for many  
15 areas, however there are gaps that require further  
16 research. NOAWG is best suited to integrate sound  
17 science into the standards development process and  
18 identify priority areas for further research.

19 To provide a little background information,  
20 I'd like to talk about some seafood trends, global  
21 aquaculture production and global organic aquaculture  
22 production that exists today. I will quickly say that  
23 imports are playing an ever-increasing role to meet the  
24 demand for seafood in the United States. The table you  
25 have before you was prepared with data from the National

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1 Fisheries Service and it shows slight increases in  
2 exports and huge increases in imports. Note especially  
3 the increase in imported seafood from 1970, when the  
4 U.S. imported one billion dollars in fishery products to  
5 2003, when the U.S. imported over 21 billion dollars  
6 worth. Global aquaculture production is the fastest  
7 growing food production sector in the world, growing at  
8 an average of nine percent per year compared to  
9 terrestrial livestock and 2.9 percent and captured  
10 fishery use at 1.3 percent.

11 There are no official statistics on organic  
12 aquaculture production yet, but in 2003 global  
13 production is estimated between 7,500 metric tons and  
14 8,400 metric tons. This includes roughly 5,000 tons of  
15 salmon, 1,500 tons of shrimp, 500 tons of carp and  
16 trout, 500 tons of other species. Currently,  
17 approximately 20 to 25 certification bodies have  
18 standards for organic aquaculture and are certifying  
19 products used in different criteria. We know that there  
20 are organic aquaculture products entering into the U.S.  
21 market even though we have no national standards yet for  
22 organic aquaculture. This begs the question, should  
23 other countries define what organic aquaculture products  
24 are for U.S. consumers? If yes, this could impact the  
25 confidence of other organic labeled livestock products.

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1 Anything of lower or non-compliance with the NOP could  
2 be bad for anything certified organic.

3 We know that there are tough issues that must  
4 be addressed thoroughly by standard-setting bodies.  
5 These include challenges with shellfish and other open-  
6 water operations; traceability; hatcheries and sources  
7 of stock; chemical and contaminant drift; aquatic feeds  
8 including fishmeal and oil, additives and supplements;  
9 proactive healthcare management; conversion periods;  
10 growing systems and more. Therefore NOAWG was created  
11 to assist, support and facilitate a nationally  
12 coordinated systematic approach to propose aquaculture  
13 standards to the NOSB and NOP using diverse stakeholder  
14 input, participation and mobilization of national  
15 expertise to use sound science. I'd like to turn the  
16 podium over to my fellow co-chair, George Lockwood, who  
17 will continue the presentation and also speak on behalf  
18 of Richard Nelson, our other co-chair who could not be  
19 with us today. Thank you very much.

20 MR. LOCKWOOD: Thank you, Debra. Thank you,  
21 Mr. Chairman, for the pleasure -- the privilege of  
22 speaking to you today. As Mrs. Brister has said to you,  
23 the national organic working group is a large and  
24 diverse group of experts in aquaculture. Altogether  
25 there are over 70 of us from a wide range of

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1 livelihoods.

2 We have organic fish -- we have fish farmers  
3 as well as people who are in agriculture, producing  
4 organic products. We have academicians [ph], we have  
5 trade associations, we have people from federal and  
6 state agencies and we have a very interesting group of  
7 international participants. We operate by way of  
8 teleconferences, so we use a list-over [ph] which is a  
9 very effective way of communicating and we've had  
10 meetings, one meeting so far in Honolulu at the World  
11 Aquaculture Society Meeting and another one coming up in  
12 New Orleans in the year 2005. It is our intention to  
13 work closely with the National Organic Standards Board  
14 and the National Organic Program to come up with  
15 meaningful standards for development of aquaculture.

16 We anticipate that we'll have our work done  
17 within the next year. We will have some clarification  
18 issues which we want to bring to you sometime in the  
19 future, that we do hope to have most of our work done  
20 with recommendations for you within one year. So far,  
21 we have recruited our membership. We have begun to  
22 identify issues. We have begun working on fishmeal  
23 constraints. We have initiated a shellfish sub-group,  
24 which is really quite a different type of proposed  
25 standards. We've worked with the National Organic

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1 Program on clarification issues and we have submitted  
2 grants to the USDA and others for possible assistance in  
3 various areas.

4 I'd like to add briefly to something that  
5 Debra just said. On the internet today there is a  
6 comment from Nature Land in Europe that they expect  
7 aquaculture, in the next year or the next several years,  
8 to reach 400 million dollars of organic products. In  
9 other words, the Europeans are moving ahead very, very  
10 rapidly. We have several recommendations for you that  
11 come out of what Mr. Carter has recommended earlier.

12 First of all, that wild be treated different  
13 than aquaculture, that the task force not deal with  
14 both, that they be split and handled separately. We ask  
15 that our work at the National Organic Aquaculture Work  
16 Group be integrated and be your arm to deal with  
17 aquaculture and be integrated directly with you. As for  
18 the task force, as recommended, we ask that this be  
19 delayed until we have an opportunity to make our reports  
20 to you and if at that time you believe that a task force  
21 is helpful and essential, that you deal with that issue  
22 at that time and not now. And that the -- our work  
23 group be able to report directly to you rather than  
24 through a bureaucratic intermediary.

25 MS. DIETZ: Time.

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1                   MR. LOCKWOOD:  Should you wish to proceed, we  
2                   ask that 50 percent of the members be appointed by us  
3                   and that the 2001 Aquatic Animal Task Force not be the  
4                   basis for your -- our future work; that it be resource,  
5                   yes, but not a basis.  Also, you have a definition of  
6                   aquaculture we gave to you from the 1980 National  
7                   Aquaculture Act.  We would hope that you would codify  
8                   it.  Thank you very much.

9                   CHAIRPERSON KING:  Thank you very much.  
10                  Questions, comments?  Yeah.  Becky.

11                  MS. GOLDBERG:  I wanted to offer a comment,  
12                  perhaps ask a question.  I think it's terrific that  
13                  there's so many people in the aquaculture community who  
14                  are interested in organic production and have in the  
15                  past been a supporter of organic aquaculture standards.  
16                  With that said, one of the things I think is really  
17                  important about the National Organics Standards Board is  
18                  represents a range of views.  It includes consumer and  
19                  environmental interests along with industry and  
20                  certifiers and so on.  And when I and one of my  
21                  colleagues in the conservation community have approached  
22                  this group about including consumer and environmental  
23                  representation, we have been at least gently rebuffed  
24                  and I'm curious why the group does not have a broader  
25                  range of participants.

1                   MR. LOCKWOOD: Well, first of all, Becky, 10  
2 of our 72 members do come, one way or another, are  
3 connected to the organic community. Either being in an  
4 organic association or one way or the other. Secondly,  
5 nobody's been rebuffed. If for some reason you  
6 submitted names of people that aren't on our list --  
7 it's an open list. You have the list directly before  
8 you; Debra handed it out. If you want people added,  
9 we'll be more than happy to have them.

10                   MS. GOLDBERG: And can I ask another question,  
11 Mark?

12                   CHAIRPERSON KING: Sure.

13                   MS. GOLDBERG: My second question had to do  
14 with written comments you submitted along with Debra and  
15 Richard Nelson, and they seem to be the basis for your  
16 not -- urging that we not rely on the earlier aquatic  
17 species task force report, which I thought was a good  
18 first step. And part of the rationale seemed to be that  
19 there weren't adequate aquaculture representation in the  
20 group and b) that there was an adequate public comment  
21 and I just want to offer the observation that by my  
22 count, seven of the ten people of the aquaculture  
23 working group in the last Aquatic Species Task Force  
24 represented aquaculture interests in some way and also  
25 that the report was put out in -- of the task force in

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1 the spring meeting of the NOSB, I guess, in 2001 and not  
2 voted on until the fall meeting and therefore there was  
3 a full summer for public comment.

4 MR. LOCKWOOD: There were two reports, you  
5 recall. One was from the working group, was correctly  
6 included, a number of aquaculture professionals. And  
7 there was a six-member task force that didn't include  
8 anybody from aquaculture that met in-camera and never  
9 once was an opportunity for anybody from aquaculture to  
10 comment on the report. So we really think it was not  
11 representative and it also contains significant errors.  
12 We certainly think it should be resourced because it  
13 represented some of your thinking, but it certainly  
14 should not be a definitive, basic document. We urge  
15 that it not be that.

16 CHAIRPERSON KING: Owusu and then Kim.

17 MR. BANDELE: Yeah, I'd just like to know when  
18 the organization was founded and also, in light of  
19 Becky's comments, what are your criteria for membership?

20 MR. LOCKWOOD: Just to express an interest in  
21 joining, is the second question. The first one, we  
22 began working about a year ago, sir.

23 MS. DIETZ: A point of clarification. If you  
24 have a proxy, if you could -- say you got a proxy when  
25 you come to the mike, that way I know in case Mark

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1 forgets to tell me. And then --

2 MR. LOCKWOOD: I have a proxy, ma'am.

3 MS. DIETZ: Okay, thanks. And then if you're  
4 a second speaker, you'll need to also tell me that  
5 because the confusion was the first speaker had a proxy  
6 and you are second speaker, so that -- hence, the long  
7 time period.

8 MR. LOCKWOOD: Thank you very much.

9 CHAIRPERSON KING: Okay. Next up is  
10 Dr. Owen Keane and on-deck is Dave Garforth. And if you  
11 could please repeat your name, who you are and where  
12 you're from for the purposes of the court reporter, I  
13 would greatly appreciate that. Thank you.

14 MR. KEANE: Okay. I'd like to thank the Board  
15 for allowing me to -- these few minutes to address you.  
16 My name is Dr. Owen Keane. I'm a poultry nutritionist.  
17 I work for Heritage Poultry Management Service in  
18 Annville, Pennsylvania. I've been doing this now for  
19 approximately 15 years. Before that, I did work at Penn  
20 State University as the nutrition, Poultry Nutrition  
21 Extension Specialist. Before you, I think, Chris had  
22 passed out a number of -- a couple of documents there  
23 that -- the first one is Methionine Deficiency in  
24 Organic Poultry and the second one is some comments that  
25 I had jotted down before and was also presented to the

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1 Board, I think, at a previous meeting. I didn't present  
2 them, somebody else probably did. Methionine is an  
3 amino acid which is one of the 10 essential amino acids  
4 needed to produce tissue proteins.

5 In poultry, methionine is unique because it is  
6 used to produce feathers. Since feathers are protein  
7 and a lack of feathering results in protein deficiency,  
8 feathers are very important to a chicken because it  
9 helps them regulate their normal body temperature of 107  
10 to 108 degrees Fahrenheit. Bird in general have higher  
11 body temperatures than mammals. Chickens and turkeys  
12 will replace their feathers at least three times before  
13 they are sexually mature. If you count the downy  
14 feathers, or the feathers which they have -- which they  
15 were -- have had when they're hatched, then it would be  
16 four times. Other deficiency systems are noticeable.  
17 There are increases in nervousness, flightiness,  
18 wildness, hypertension.

19 This usually occurs in the first week or two  
20 after hatching. After two or three weeks, litter eating  
21 to feather picking will occur. Finally, the birds would  
22 begin to cannibalize each other, causing morbidity and  
23 mortality. When they reach this stage, there's very  
24 little that can be done to break the habit of the  
25 picking. Even adequate amounts of methionine at this

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1 particular time will not solve the problem. So they  
2 must -- the methionine levels must be started at day one  
3 of age. The average feed consumption of a young chicken  
4 during the first week of age is about seven to ten grams  
5 per day and if you want to relate that to something that  
6 you see every day, it's probably about one teaspoonful,  
7 so it's not very much. In addition to that, in addition  
8 to the methionine, there needs to be another 40 plus --

9 MS. DIETZ: Time.

10 MR. KEANE: -- nutrients supplied to the seven  
11 to ten grams of feed in adequate amounts to maintain  
12 life.

13 CHAIRPERSON KING: Are there questions  
14 concerning his input?

15 MR. KEANE: I though a -- yeah.

16 MR. LACY: I know that we sort of cut you off,  
17 Dr. Keane.

18 MR. KEANE: Sure, that's all right.

19 MR. LACY: But maybe you -- I'm sure you had  
20 sort of a bottom line of summary. If you'd like to give  
21 us the bottom line of what you're presentation was going  
22 to be?

23 MR. KEANE: Okay. The bottom line is,  
24 basically, that methionine should be included in the  
25 poultry feeds. Now, methionine can be added in not,

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1 perhaps maybe methionine, per se, but other feed  
2 ingredients that high amounts of methionine. I have no  
3 problem with that, if that's what the -- that's what  
4 you're considering a bottom line, this is what I  
5 consider a bottom line here, at least anyway, because  
6 they do need it and they have -- it is really what the  
7 -- well, all the nutritionists know is that it is the  
8 first limiting amino acid in a poultry feed. The other  
9 thing I wanted to explore with you, also --

10 MS. DIETZ: Sir --

11 CHAIRPERSON KING: Sir, this is question and  
12 answer.

13 MS. DIETZ: -- we get to ask you some  
14 questions now.

15 MR. KEANE: Sure, okay.

16 MS. DIETZ: Mine's just more a comment.

17 MR. KEANE: This doesn't take my three  
18 minutes, does it?

19 MS. DIETZ: You've gone past the three  
20 minutes. It's a pretty fast three minutes, isn't it?  
21 This Board has already reviewed methionine is --

22 MR. KEANE: Sure.

23 MS. DIETZ: -- as a material to be added on  
24 the National List.

25 MR. KEANE: Yes.

1 MS. DIETZ: We added it with the Sunset  
2 Provision that it be removed, I believe, next year.

3 MR. KEANE: Two years from now.

4 MS. DIETZ: Okay. Our charge was that the  
5 industry needed to bring us alternatives, so I -- that's  
6 what I plead with you that you should read, maybe even  
7 go back to the minutes of that meeting and see what  
8 we've done. We've already gone through all this  
9 information.

10 MR. KEANE: I don't see them coming down the  
11 road.

12 MS. DIETZ: This was a statement, not a  
13 question for you.

14 MR. KEANE: Okay.

15 MS. DIETZ: So I encourage you to go back and  
16 encourage your industry to bring us alternatives.  
17 That's what we asked for, but otherwise, that material  
18 is going to be coming off the National List.

19 MR. KEANE: When is that coming out?

20 CHAIRPERSON KING: October of 2005.

21 MR. KEANE: Pardon?

22 CHAIRPERSON KING: October of 2005.

23 MR. KEANE: That's -- okay.

24 CHAIRPERSON KING: That would be a year from  
25 now.

1 MR. KEANE: That's a year from now.

2 CHAIRPERSON KING: Yeah.

3 MR. KEANE: That's fine, okay. But I don't  
4 see it right now and I'm formulating feeds for about a  
5 quarter of a million organic hands right now. So I -- I  
6 mean, I would use them right now if they were available.  
7 Now, some of the research that goes on in academia,  
8 because I'm quite familiar with academia, too. It  
9 doesn't get out there, you know, the -- to the ones that  
10 are out here that are doing all the formulation and feed  
11 formulations why, for about maybe four or five years.  
12 So this is what I'm really concerned about, more or  
13 less, than anything else.

14 CHAIRPERSON KING: Well, yeah. We appreciate  
15 your concern and it's been noted and in fact, Mike and I  
16 talked on the phone the other day that --

17 MR. KEANE: Good.

18 CHAIRPERSON KING: -- you know, I mean ongoing  
19 research needs to be done, looking at alternatives and  
20 certainly what's happening in the industry right now is  
21 always a concern, but as Kim said, our hope is to  
22 receive more information concerning alternatives with  
23 methionine, so thank you very much for your input.

24 MR. KEANE: Okay, very good. Thank you.

25 CHAIRPERSON KING: Yeah. Let's see,

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1 Dave Garforth and on deck is William Jackson.

2 MR. GARFORTH: Thank you, Mr. Chairman.

3 Again, I'd like to thank the Board for giving us the  
4 opportunity to make some public representation today.

5 As I said, my name's Dave Garforth. I'm representing  
6 Green Harvest, summer farming activities in Ireland and  
7 also Spreting [ph], which is a feed company which is  
8 affiliated to Green Harvest which obviously supplies the  
9 feed. I'm going to get my picture out, first of all, so  
10 you know where I'm coming from.

11 Okay, we hold the view that farming of  
12 viscivorous [ph] species, carnivorous species of fish  
13 under aquaculture can be a sustainable activity and can  
14 be brought under organic management. So that's really  
15 my principle guiding statement I want to make to  
16 everybody today. Just to fill you in on the background,  
17 we've been growing organic salmon in Ireland since 1996  
18 under a variety of different certification agencies,  
19 natural -- being one of the formal ones, but also the  
20 Irish Organic Farmers and Growers Association, Bio-Swiss  
21 Standards, the French B.O. Standard and there's probably  
22 others if I could remember, but -- Soil Association in  
23 the U.K. and companies affiliated through there, as  
24 well. Aquaculture products including those derived from  
25 aquaculture -- I'm just going to read here, are traded

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1 internationally.

2           Since the U.S. is an extremely important  
3 market for seafood on the one and organic products on  
4 the other, decisions taken at this level here by the  
5 NOP, the USDA and by the NOSB obviously have a huge  
6 potential to impact some global aquaculture and the  
7 trade and also the development of organic aquaculture  
8 globally. So I'd like to make that statement, as well.  
9 That's vis-à-vis policy, vis-à-vis labeling, vis-à-vis  
10 any standards which are set representing the missions  
11 for fishmeal, the missions for additives, you name it,  
12 diet, stocking -- we feel that the existing fish farming  
13 operations we have in Ireland can make a valuable  
14 contribution to the developments here and we'd like to  
15 try and support you in that.

16           We ask, therefore, if the following could be  
17 taken into consideration, first of all. And these are  
18 just something I've noted over the last, I suppose --  
19 this morning, really, since we came to this meeting.  
20 Probably people that are aware there are several organic  
21 established activities operating globally. These cover  
22 a lot of species; salmon, trout, sea bass -- carps,  
23 other species, as well. Eels, I believe, shrimp, as  
24 well. These are operating -- some of these products  
25 have been operating for more than 10 years. So

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1 obviously standards have been set in other areas. These  
2 will create new awareness in the marketplace and also  
3 achieve market exemptions.

4 Obviously -- and I think the NOSB Aquatic Task  
5 Force should be commended on this. Setting standards  
6 isn't easy; making recommendations isn't easy, so  
7 certainly I'd like to commend you on your first draft  
8 attempts at setting standards. It's clearly the most  
9 difficult thing to do and I think it's a great document  
10 and a good basis and starting point to move forward with  
11 those standards, as well. I like particularly some of  
12 your comments which you've made and it's interesting how  
13 closely they resemble the similar position we were in 10  
14 years ago --

15 MS. DIETZ: Time.

16 MR. GARFORTH: -- and -- okay. I think that's  
17 about it.

18 CHAIRPERSON KING: Does anyone have a question  
19 for --

20 MS. CAUGHLAN: I'd like to just follow up.  
21 What was the position 10 years ago?

22 MR. GARFORTH: Our position 10 years ago. We  
23 began working principally with -- as an industry, with  
24 Nature Land, a certification agency. We wanted -- we  
25 saw a role to play in -- in the development of organic

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1 aquaculture, so we approached, actually, Nature Land in  
2 the first instance. We approached other agencies, as  
3 well, which were involved in private certifications in  
4 Europe.

5 I should explain still in Europe, the  
6 activities in organic in terms of regulation for  
7 livestock and for aquaculture in particular, aren't  
8 dissimilar from where they are in the U.S. At this  
9 point in time there is an E.U. organic regulation, but  
10 there's no annex for aquaculture. So all the private  
11 standards survive just as private labels. They follow,  
12 basically, IFOAM, the International Federation of  
13 Organic Agriculture Movements guidelines, but in many  
14 respects, we're still at the same place as where you  
15 are, even though all these agencies have moved forward  
16 and developed their own standards, which have been  
17 recognized.

18 And I think that activity has helped a lot and  
19 certainly at this point in time, the E.U. is now trying  
20 to harmonize all these standards in Europe to come out  
21 with a common regulation or an annex to the E.U.  
22 regulation which will support, obviously, a more  
23 harmonized process for development of aquaculture in  
24 Europe. And perhaps -- I don't know if that's the  
25 driving force in the U.S., I think perhaps it might be

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1 different. I don't know.

2 CHAIRPERSON KING: Jim.

3 MR. RIDDLE: Yeah, just quickly. We heard  
4 earlier a suggestion that we delay seating an  
5 aquaculture task force. What's your position? Should  
6 we move ahead at this time?

7 MR. GARFORTH: Well, I think certainly moving  
8 ahead in terms of the process of developing further  
9 recommendations and even setting draft standards is a  
10 positive move forward.

11 MR. RIDDLE: Okay, thanks.

12 MR. GARFORTH: It has to be done at some  
13 point, yeah.

14 CHAIRPERSON KING: Thank you. Next is  
15 William Jackson and let's see, on deck -- I have to skip  
16 down. Tom Hutchison.

17 MR. JACKSON: I'm burning up my three minutes.

18 MS. DIETZ: Oh no, you're not.

19 CHAIRPERSON KING: You haven't started yet.

20 MS. DIETZ: I'll wait until you start.

21 MR. JACKSON: All right. What I am excited  
22 about today is to share with you technology out of Japan  
23 that we've negotiated with on sanitizing and cleaning  
24 with water that has been charged so that when it comes  
25 out, it comes out, half of it, approximately, is on the

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1 alkaline side, the other half is on the acid side. I'd  
2 like for you to turn to Tab Number 1, the back side of  
3 that page will give you the agency approvals that are  
4 already in existence.

5           Tab 2 talks about how it works by using tap  
6 water, a small amount of salt and electricity, a  
7 chemical change transforms these common ingredients into  
8 one of the most effective cleaning, means of cleaning  
9 with a strong anti-bacterial effect, proven effective at  
10 removing bacteria by creating both alkaline and acid  
11 water and with the combination water, we're able to wash  
12 and sanitize without the use of harsh chemicals.

13           On the back of that page it shows how it  
14 occurs and on page four, or Tab 4, the chemical changes  
15 that take place and if you are thinking about the amount  
16 of salt, it is less than half the amount that we use for  
17 seasoning our food, so the amount is very, very minimal  
18 and the charge -- for example, what you're taking is the  
19 combination of the sodium and the chlorite. In that  
20 small amount with that charge, you end up with  
21 approximately 80 times the strength of the chlorite  
22 which immediately then -- thank you. Then -- the sixth  
23 one talks about very quickly, the different kinds of  
24 water, the pH of one is 11.3, one is 2.7. The different  
25 universities are on 7 and the number 8, we'll go down

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1 through a number of the bacteria and on page or Tab 11,  
2 there are questions and answers, but on the back of that  
3 there are university studies and some of you are as keen  
4 on that as I am and we have here -- I have two notebooks  
5 of just university studies here in the United States  
6 already completed on some of the main questions that we  
7 have. On page 12, I consider this --

8 MS. DIETZ: Time.

9 MR. JACKSON: -- to probably be the -- 12 is  
10 the most important page and that will give you the  
11 bacteria and viruses already proven effective.

12 CHAIRPERSON KING: Rose.

13 MS. KOENIG: Are you aware that you need to  
14 petition that if it's a substance, you know, you  
15 indicated -- it sounds like there's a synthetic reaction  
16 going on and you have a substance that is generated by  
17 your process.

18 MR. JACKSON: Yes, there are two ways to do  
19 it. Number one, you have to remember this is very --

20 MS. KOENIG: I don't want to get into that,  
21 but what I'm suggesting is that we have a process; if  
22 it's an actual substance that you want us to look at in  
23 terms of seeking approval for the National List --  
24 because it sounds like it would have to be added to the  
25 National List, then you need to address that through the

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1 petition process. And that's what I suggest you kind of  
2 look into and if you need some additional information,  
3 we'd be happy to provide that.

4 MR. JACKSON: There's a combination of answers  
5 to that, but I'll accept your request for doing a  
6 petition.

7 MS. CAUGHLAN: So the substance is  
8 electrolyzed -- oxidizing water?

9 MR. JACKSON: That's correct and --

10 MS. CAUGHLAN: And you're here presenting us  
11 with a brand name, that's the point.

12 MR. JACKSON: Yes.

13 MS. CAUGHLAN: You need to --

14 MR. JACKSON: Well, not a brand name. I'm  
15 just introducing the subject.

16 MS. CAUGHLAN: Right, concept.

17 MR. JACKSON: And I knew it was going to be a  
18 short period of time so I gave you 60 pages to look and  
19 then the following will be a presentation --

20 MS. CAUGHLAN: We invite your petition.

21 MR. JACKSON: -- of our request. It will  
22 include table salt and it will include that I want to  
23 put water in a bottle. Any other question? Thank you.

24 CHAIRPERSON KING: Mr. Hutchison, you're next  
25 and Pete Gonzalez is on deck.

1                   MR. HUTCHISON: Thank you. Tom Hutchison,  
2                   Organic Trade Association. Please find in our written  
3                   comments a draft of an OTA paper on organic pet food  
4                   standards and an OTA position on a very important issue,  
5                   the allowance of both organic and nonorganic forms of  
6                   the same ingredient and made with foods, regarding which  
7                   OTA requests an NOSB recommendation for rule change  
8                   supporting OTA's position.

9                   OTA does not usually take positions on  
10                  specific materials, but we do have a task force on  
11                  alternatives to synthetic methionine not yet ready to  
12                  report, though I understand several people here will  
13                  report independently on that. Studies have just been  
14                  funded that will take several years to complete, so OTA  
15                  would appreciate an additional period of allowance. A  
16                  material sunset, please publish the entire National List  
17                  in the Federal Register for comment as soon as possible  
18                  to assess whether there's any new information available.  
19                  If no new information is available, OTA urges NOSB to  
20                  recommend continuing the current status of the material.

21                  I see the attached for the pet food, proposed  
22                  pet food standard. And they're full of comments in the  
23                  written version. On aquatic animals, the Board must  
24                  ensure that any aquatic animals standards it creates do  
25                  not lower consumer confidence in the organic label. The

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1 organic standard must not only meet any related existing  
2 standard, it must take into account and exemplify the  
3 ecological principles on which organic agriculture and  
4 its appeal to consumers is based. On policy development  
5 matters, thank you, Policy Development Committee.

6 There is a possible misinterpretation of an  
7 OTA position, though. OTA has been quoted in a passage  
8 meant to refer only to products that do not meet the NOP  
9 Final Rule, which should read the opposite way of the  
10 way it has been read, that being, "The absence of  
11 specific standards for such products should not become a  
12 reason for allowing the organic claim for such products  
13 if they do not meet the NOP rule. Until standards are  
14 developed, USDA should not allow the organic claim to be  
15 made regarding these products if they do not meet the  
16 NOP rule." For the directives, OTA supports the NOSB  
17 positions on fishmeal and unknown NRT [ph] pesticides.

18 On the Scope, our position's always been that  
19 if a product meets the rule, it is by definition in  
20 organically produced agricultural product and therefore  
21 should fall under the scope of the National Organic  
22 Program. OTA supports the comments of the American  
23 Herbal Products Association. On specialty crops, OTA  
24 agrees the NOSB recommendations should be published as  
25 proposed rules. Thank you very much.

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1                   CHAIRPERSON KING: Impressive, Tom.  
2                   Questions? Thank you very much. Pete Gonzalez and on  
3                   deck is Mark Kastel and it appears Mark has previously  
4                   -- has a proxy for Ann Lazor.

5                   MR. GONZALEZ: Pete Gonzalez representing 670  
6                   or so members of Oregon Tilth, mostly in Oregon but also  
7                   across the country. We'd like to yield our time for  
8                   comments and the next commenter in light of your  
9                   schedule today.

10                  CHAIRPERSON KING: Thank you.

11                  MR. KASTEL: Do I have three minutes or five  
12                  minutes, Mark?

13                  CHAIRPERSON KING: Six.

14                  MR. KASTEL: Six minutes. Okay, thank you. I  
15                  have a proxy, as you know. Okay, I'm pleased to see  
16                  that our staff is here today --

17                  CHAIRPERSON KING: Your name for the record,  
18                  please.

19                  MR. KASTEL: I'm sorry.

20                  CHAIRPERSON KING: Your name for the record.

21                  MR. KASTEL: I'm going to get to that. It's  
22                  in the text. Mark Kastel, thank you. This is a  
23                  representation of respect for our Board and for the  
24                  organic community and we've seen what appears to be some  
25                  nuance changes today and so I'm hopeful. And even

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1       though I'm from -- I live in Wisconsin, I'm from  
2       Missouri, so in six months we'll see. I hope we'll see.

3               My name's Mark Kastel. I'm here today  
4       representing the Cornucopia Institute based in  
5       Cornucopia, Wisconsin. I have a proxy in my possession  
6       from Ms. Ann Lazor, one of our board members and a  
7       Vermont dairy producer, who along with her husband,  
8       Jack, and their employees milk 45 Jersey cows and market  
9       the nicest organic yogurt or some of the nicest yogurt  
10      in the country under the banner Butterworks Farms.

11              In Chicago, the Cornucopia Institute, along  
12      with many other farmers, consumers and NGOs called for  
13      the equivalent for a regime change at the National  
14      Organic Program. The reward for our efforts was to have  
15      the past manager of the NOP promoted with a raise and  
16      salary. He was replaced by a young career bureaucrat  
17      demonstrably more respectful to the people involved in  
18      the process, but unfortunately, once again lacking a  
19      professional background in organic agriculture.

20              CHAIRPERSON KING: Sir, I would have your  
21      comments be objective and not personal attacks on  
22      character or anything. We will not stand for that.

23              MR. KASTEL: I --

24              CHAIRPERSON KING: I'm asking you one time, do  
25      not have personal attacks on individuals on this Board

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1 or the National Organic Program. If you have some  
2 constructive information to share with this Board,  
3 please do so.

4 MR. KASTEL: Okay. I'm hoping we're not  
5 taking time out of my testimony here. Mark, I was -- I  
6 do not know any of the staff members personally and I --

7 CHAIRPERSON KING: Please continue with some  
8 constructive comments.

9 MR. KASTEL: I'd like to respond to your  
10 comments, if I may.

11 CHAIRPERSON KING: No. Please continue with  
12 some constructive comments.

13 MR. KASTEL: I object to the characterization  
14 that there was something personal in nature regarding my  
15 testimony. More importantly, a by-product of the  
16 unprecedented volume of testimony in Chicago was  
17 understandable reaction to the guideline documents. In  
18 the press they were generated -- I'm sorry, you know,  
19 Mark, I want to respond to your comments. I think  
20 it's a --

21 CHAIRPERSON KING: Please continue with  
22 constructive comment. I'm not going to ask again.  
23 Thank you.

24 MR. KASTEL: In Chicago we objectively  
25 critiqued the fact that not only was our organization

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1 but others in the organic community unhappy with the  
2 fact that there was a lack of professional pedigree and  
3 technical experience on -- represented by the NOP staff.  
4 We still object to the fact that universally respected  
5 and creditable people with a production agriculture  
6 background or academic background that would be  
7 applicable to those duties are not represented on the  
8 staff.

9           That was the nature of the comments I made and  
10 I'm sorry that, you know, I'm probably not going to be  
11 able to present my testimony that I presented a week  
12 ago. I'm not a professional public speaker. The  
13 Cornucopia Institute is here today because of the  
14 wholesale expansion of factory farming into the organic  
15 dairy, poultry and beef production sectors. Although  
16 I'm quite comfortable with the fact that we do not have  
17 a limitation on scale in terms of organic certification,  
18 the law most definitely puts limitations on organic  
19 farmers of animal husbandry practices. The law calls  
20 for pasture being an integral part and component of feed  
21 intake for ruminants.

22           Why do we need to file lawsuits against our  
23 own government to enforce the law? You cannot milk  
24 3,000 cows, 4,000 cows, 5,000 cows, milking them, in  
25 some instances, three times a day and provide them with

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1 real access to pasture. You can provide them with dry  
2 lots and call that pasture, but that does not make it  
3 pasture, nor does it comply with the law. Furthermore,  
4 the claim by some farms and the willingness of the USDA  
5 and certain certifying organizations to approve  
6 confinement livestock because of the "stage of  
7 production exemptions" disregards the tenor and spirit  
8 of the law and rules.

9 This is disrespectful and a slap in the face  
10 to Ann and Jack Lazor and the hundreds of other  
11 hardworking dairy families who jump through the hoops to  
12 produce real organic milk. Some would like to say that  
13 we should move to the next label and abandon organics.  
14 We are not ready to give up. There are too many good  
15 people who have worked too long, including members of  
16 this panel --

17 MS. DIETZ: Time.

18 MR. KASTEL: -- to abandon the hope that  
19 organic farming has brought to rural America.

20 CHAIRPERSON KING: Thank you. Questions,  
21 comments? Thank you.

22 MR. KASTEL: I'll say in closing, Mark, and I  
23 assume you'll gavel me down again, that this is supposed  
24 to be a democratic process. I --

25 CHAIRPERSON KING: This is a democratic

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1 process for asking --

2 MR. KASTEL: And though you might not agree  
3 with my language --

4 CHAIRPERSON KING: Sir.

5 MR. KASTEL: -- in most venues, we have free  
6 speech in this country and I --

7 CHAIRPERSON KING: Yes, you do. Yes, you do.  
8 I'm just asking no personal character attacks. Thank  
9 you for your comments. Next up is Herbert [sic]  
10 Karreman. On deck is Jim Pierce, Organic Valley.

11 MR. KARREMAN: Hello. Hubert Karreman,  
12 veterinarian, Pennsylvania. I just wanted to talk about  
13 perhaps some things for your TAP reviews you do in the  
14 future. I've had some confusion or problems with  
15 various certifiers throughout the country on certain  
16 treatments that have been used on dairy cows in  
17 emergency situations and some of it comes down to  
18 nomenclature, so the first thing I'd ask is that -- and  
19 maybe this already done, but please, I guess, make it  
20 more publicly known to the certifiers when something is  
21 TAP reviewed and allowed.

22 But that when you're doing the TAP reviews,  
23 please take all known commercial trade names that  
24 included that TAP material, you know, make that  
25 widespread known. How many -- what kind of and how many

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1 commercial products are out there containing, let's say,  
2 calcium borogluconate, okay? Because certifiers will  
3 say if I put on my bill a specific trade name and they  
4 don't know that trade name, so they've got to review  
5 that whole product, even though it is calcium  
6 borogluconate. And it causes a lot of headaches for the  
7 farmer.

8 And also, if when you're reviewing a TAP  
9 material, if you could show if it's in the United States  
10 Pharmacopeia or the National Formulary since the FDA  
11 looks at that, well, they recognize that as the official  
12 compandium [ph] in the United States. Also, if you  
13 could show all chemical synonyms known for that TAP  
14 reviewed material, that would be helpful. I had a long  
15 drawn-out discussion with one certifier about calcium  
16 borogluconate because in a trade name it's called -- it  
17 has its name Borol Esters of Gluconic Acid. They had no  
18 idea what that was, so it was an educational process.

19 So basically, when you're doing a TAP review,  
20 please have as many different synonyms or -- and  
21 products with that active ingredient named so that in  
22 the end, if it does become allowed, that certifiers will  
23 have a nice list to choose from or if they see it come  
24 through. And also, I hope that when you're looking at  
25 TAP reviews before like in the front end -- you know, if

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1 something's an electrolyte, that you don't do a TAP  
2 review on it, because calcium borogluconate is an  
3 electrolyte. I was on that TAP review as an OMRI  
4 reviewer back in 2000 and right now today, from what I  
5 hear this morning -- I wasn't there. I was late, but  
6 calcium borogluconate is being just jettisoned off to  
7 the side now because the FDA triggering what-not and  
8 yet, it's an electrolyte. So isn't it allowed?

9 MS. DIETZ: Time.

10 CHAIRPERSON KING: Questions, comments? Rose.

11 MS. KOENIG: We'll be discussing, I guess,  
12 tomorrow the revision of a petition form, which is what  
13 petitioners need to provide to the NOP and eventually to  
14 the TAP contractor and one of our suggestions or one of  
15 our changes is in addition to, you know, in addition to  
16 whatever generic you're applying for or petitioning for,  
17 what formulations exist out there so that the TAPs are  
18 kind of a much more wide scope, because that's -- it's  
19 -- the intention is you're putting a generic on not one  
20 specific brand name. But please look through that  
21 document. It's on the web. And perhaps you'll be here  
22 during that discussion or jot down some of your comments  
23 specifically and get them to me if you have specific --  
24 because it sounds like you're really suggesting, you  
25 know, alterations in that process, so those are welcome

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1 changes. They're welcome suggestions.

2 MR. KARREMAN: Okay.

3 CHAIRPERSON KING: Jim and Kim.

4 MR. RIDDLE: Yeah, and just to follow up on  
5 that; this draft is just being introduced at this  
6 meeting so you will have time to review it and get  
7 input. It's not like we're going to take final action  
8 on it tomorrow.

9 MR. KARREMAN: Good. Okay.

10 MS. DIETZ: One of the things we've been  
11 tossing around -- I think Rosie said was CAS numbers and  
12 those numbers identify individual materials. Sometimes  
13 materials can have 20 or 30 different synonyms, so we  
14 need to be creative in thinking. MSDS sheets would list  
15 all the different names of materials and we have tried  
16 to incorporate those in the TAP reviews, but I don't  
17 know if we're going to be able to list 20 different  
18 alternatives of the same product on the National List,  
19 but certainly give us your feedback.

20 MR. KARREMAN: I think you should because, you  
21 know, if a product is used and it's technically the same  
22 thing, there's no reason to cause headaches and  
23 confusion for the farmer. That's it. Thanks.

24 CHAIRPERSON KING: Thank you. Next I have  
25 Jim Pierce and Ann, excuse me, Fanatco.

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1 UNIDENTIFIED SPEAKER: Fanatico.

2 CHAIRPERSON KING: Fanatico.

3 MR. PIERCE: Mr. Chairman, I'm going to cede  
4 my time to my good friend Tony Azevebo and you can  
5 scratch his name from the list. He's several pages  
6 further.

7 CHAIRPERSON KING: Okay. Thank you.

8 MR. AZEVEBO: My name is Tony Azevebo. I'm  
9 sorry I don't have any pamphlets or anything to hand  
10 out.

11 CHAIRPERSON KING: For the reporter, could you  
12 please spell that? I know he needs to get that down.  
13 Thank you.

14 MR. AZEVEBO: A-Z-E-V-E-B-O. Tony. I'm a  
15 dairy farmer from California from the San Joaquin Valley  
16 and I'm very proud to be here and have this opportunity  
17 to express my feelings. I wouldn't want to do what you  
18 folks do and I'm glad that somebody else -- this is  
19 boring as hell. I -- that was not a bad comment about  
20 putting people down or anything, but --

21 CHAIRPERSON KING: No, I understand, I  
22 understand.

23 MS. KOENIG: So I guess we can assume you're  
24 not one of the 70 people who want to become a Board  
25 member.

1 MR. AZEVEBO: No, no.

2 MS. KOENIG: Okay.

3 MR. AZEVEBO: You're eating up my three  
4 minutes, don't laugh, okay. The San Joaquin Valley is a  
5 truly remarkable valley. It feeds over half of the  
6 United States and I grew up there. And I watched all  
7 the small farmers, you would call them family farmers, I  
8 call them hands-on farmers. I've watched them basically  
9 disappear for the animal factories that have taken over  
10 and now we have air quality problems, water quality  
11 problems and about eight years ago I was -- got into  
12 organics and it was truly a breath of fresh air. And  
13 I've also helped other producers come into organics and  
14 I'm not here to tell you what to do, but I'm just here  
15 to tell you what not to do.

16 Please don't let this go the same way that the  
17 conventional world went. That's the first thing. When  
18 you're doing -- when you're making a decision on  
19 anything, just ask yourself what's best for that organic  
20 consumer? Because I guarantee you, that's the best  
21 thing for an organic farmer. Just watch out for them.  
22 They're paying the premium; they're concerned if we  
23 allow this to be watered down, it's gone. For example,  
24 there's a large demand for organics now.

25 What do we do? Well, I'm from California, the  
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1 land of the fine wines. If we want more fine wine, we  
2 don't add water to it. It takes time to produce good  
3 quality organic products and that comes with time, not  
4 lowering the standards so more farmers to get in, but  
5 educating farmers so that they can get in. So please  
6 keep doing the job that you're doing and the other thing  
7 we need to clear up. Everybody's calling this an  
8 industry. Maybe it is on your level, but as a farmer,  
9 the guy that fixes my heater gets 35 bucks an hour. I  
10 don't get 35 bucks an hour and all he produces is hot  
11 air and I produce food. I farm because I love to farm,  
12 that's what I do. And organics has allowed me to stay  
13 in farming.

14 So please keep doing what you're doing, I  
15 appreciate your efforts but I'm noticing we're getting  
16 -- it's not rocket science. I think this lady said  
17 that; it's not. When you're making a decision, what  
18 does the organic consumer want? It's simple. I'm not  
19 up yet? That's all I got to say. Any questions?

20 MS. DIETZ: They said six minutes, he deferred  
21 that to you.

22 MR. AZEVEBO: Oh, okay. Well, there is a  
23 couple of other items that we can go into. Just  
24 recently I allowed my farm to be used for the National  
25 Center for Appropriate Technology and this is an

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1 organization that invited NCRA individuals from the Farm  
2 Advisory Boards throughout the state to educate them on  
3 organics and sustainable farming, and they did this last  
4 Thursday and Friday. And so we had all these people  
5 from the Farm Advisory Office come out there and what  
6 was unique was they had been told two years ago don't  
7 pay attention to organics, it's kind of a fading -- it's  
8 a hippie-dippie type of a thing and now with the influx  
9 of farmers in California wanting to get in organics,  
10 they cannot -- they don't have the tools to educate  
11 them.

12 So we did two days of workshops, had other  
13 organic farmers talk to these people to help new farmers  
14 to get into the system. So my goal is not to keep  
15 anyone out. My goal is to try to bring and try to save  
16 more farmers. We also are working very active with --  
17 oh, the water conservation outfit; I can't think --  
18 what's the name, George? Bobby Kennedy's into.

19 MR. SIEMON: Oh, the Water Keepers.

20 MR. AZEVEBO: They found out that pasture is  
21 an excellent way to filter water and that's -- one of my  
22 primary crops, as we went back to pasteurizing and found  
23 out that it's not only beneficial for the animal, that's  
24 what the consumer wants, but we can commingle manure  
25 water and brackish water and what comes out the other

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1 end on the pasture, it's good water, so pasture is an  
2 intricate part of sustainable agriculture.

3 And even though I agree that when we start  
4 putting large concentrations of animals in one group  
5 it's not good, I don't feel we should keep anyone out.  
6 If it's a level playing field, if they can get them out  
7 cows out on pasture, then I think we -- but we need to  
8 hold strong, strong rules. And also, one last thing,  
9 zero pasture for a lactating cow does not constitute a  
10 pastoral. You need to make that clear. You might want  
11 to write that down. Zero pasture for a lactating cow  
12 does not constitute pasture. And thank you very much.

13 CHAIRPERSON KING: Questions?

14 MR. AZEVEBO: Are there any questions?

15 CHAIRPERSON KING: I guess not. Thank you  
16 very much for your input. Let's see. Ann, you're up  
17 and on deck is Joe Smiley.

18 MS. FANATICO: My name is Ann Fanatico and I'm  
19 a graduate student at the University of Arkansas and I'm  
20 finishing a Ph.D. in natural poultry production. And I  
21 want to inform the NOSB and organic community about  
22 upcoming research at University of Arkansas focused --

23 UNIDENTIFIED SPEAKER: Spell your name,  
24 please.

25 MS. FANATICO: Spell my name?

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1 F as in Frank-A-N-A-T-I-C-O.

2 MR. RIDDLE: And could you pull the mike down  
3 a little closer?

4 MS. FANATICO: Sure.

5 MR. RIDDLE: Great.

6 MS. FANATICO: I want to inform the NOSB about  
7 upcoming research at the University of Arkansas focused  
8 on eliminating the use of supplemental methionine in  
9 organic poultry diets. The phase-out of synthetic  
10 methionine in organic production is a critical issue  
11 since it's added to nearly all broiler diets, organic  
12 and nonorganic to support the fast growth of broilers.  
13 In addition to feeding strategies, another possible  
14 solution with the elimination of methionine, synthetic  
15 methionine is the use of slow-growing birds, which slow-  
16 growing birds require, may require less methionine in  
17 the diet because they have a slower rate of growth and  
18 are less muscled than the fast-growing broilers.

19 Although the yield and efficiency of slow-  
20 growing broilers is worse than fast-growing broilers,  
21 slow-growing broilers may present a market opportunity  
22 because of potential meat quality and sensory  
23 attributes. The objectives of the Arkansas work are to  
24 determine the methionine assisting requirements of slow-  
25 growing broilers. We'll actually be looking at slow,

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1 medium and fast-growing broilers and to evaluate the  
2 impact of feeding strategies with slow-growing broilers.  
3 Feeding trials will be conducted to validate the  
4 determined methionine requirements under various  
5 conditions. Target requirements at 80, 100 and 120  
6 percent will help inform whether the requirements are  
7 overestimated, correct or underestimated.

8           The experiment will be repeated with outdoor  
9 treatments. The University of Arkansas has a portable,  
10 free-range research facility. Meat quality will be  
11 investigated, pH, color, tenderness, nutrient content  
12 and own-farm field trials will be conducted to verify  
13 that the resulting strategies on a working organic farm  
14 at West Virginia University. They will test the organic  
15 diets on their integrated sheep and poultry farm and  
16 they sell organic poultry to a local market. Economics  
17 will be analyzed and lastly, to disseminate research  
18 findings to the organic and scientific communities.  
19 Along with university extension activities, the National  
20 Center for Appropriate Technology will disseminate  
21 producer-friendly information about this. And this is a  
22 project that has a four-year work plan. Thank you.

23           CHAIRPERSON KING: Dave.

24           MR. CARTER: Yeah, thank you, Ann. Just a  
25 question. When you talk about slow-growing poultry,

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1 what's your definition of slow-growing?

2 MS. FANATICO: Well, we're looking at birds  
3 that take more like 12 weeks to grow out as opposed to  
4 seven weeks, which is common for broilers.

5 MR. CARTER: Okay. And are you looking at  
6 alternative sources of methionine?

7 MS. FANATICO: We'll also be trying to tie  
8 into some of the feeding research that's going on with  
9 the task force and also some other projects, so we'll  
10 look at some alternative feeding strategies, as well.

11 CHAIRPERSON KING: Mike and then Rose.

12 MR. LACY: Just one quick question, Ann. You  
13 said a four-year work plan, so the results of this will  
14 be reported in --

15 MS. FANATICO: Well, we'll report results as  
16 we go along because the project is in multi stages, so  
17 there will be some information, but the project, you  
18 know, to complete the entire project will take four  
19 years.

20 MR. LACY: Thank you.

21 MS. KOENING: Can I ask you what the source of  
22 funding for the project?

23 MS. FANATICO: It's USDA Integrated Organic  
24 Program.

25 MS. KOENING: And did you -- as you heard, I  
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1 guess, hopefully here during the discussion that  
2 economic analysis is sometimes critical in this -- for  
3 methionine, since it's sunsetted [ph], it may not be an  
4 issue, but even given so, is there an economic  
5 analysis --

6 MS. FANATICO: Yes, I thought I mentioned  
7 that, but the National Center for Appropriate Technology  
8 is supplying a program specialist to analyze the  
9 economics, so we're going to compare economics.

10 CHAIRPERSON KING: And did I hear you mention  
11 that you're going to be comparing and contrasting meat  
12 quality, as well?

13 MS. FANATICO: Yes.

14 CHAIRPERSON KING: Okay. Thank you.  
15 Joe Smiley and Lynn Coody is up -- on deck.

16 MR. SMILEY: Joe Smiley, Senior Vice President  
17 of Quality Assurance International and one of the  
18 accredited certifiers of the USDA. Thanks for the  
19 opportunity to speak at this meeting. I really enjoy  
20 the tenor of this meeting and I really would like to  
21 thank all the NOSB and NOP staff for really doing a  
22 great job for organics. I think that we are moving  
23 forward, I think things, mostly in a very positive  
24 light; we're working through a lot of problems that have  
25 taken years and I think we all need to just be patient

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1 with the process and trust in each other's good  
2 judgment. So on to the points. This is a simple one  
3 but it's a really major one for a working stiff on the  
4 front lines of certification and that is certificates.

5 We really didn't expect to see a lot of  
6 certificates coming into our agency that don't specify  
7 in compliance to the NOP. Many certification agents are  
8 accredited by the USDA, but they accredit to a number of  
9 standards and a lot of times the certificates don't  
10 specify what standard is -- they're accredited to. We  
11 pursue that and say this -- we have to make sure that  
12 this certificate is in compliance with the NOP, not some  
13 other organic standard because as good as it may be,  
14 this has got to be an NOP certificate.

15 We really want to see more focus from the NOP  
16 and support from the NOSB on somehow hopefully avoiding  
17 rule change, which I'm not really that excited about,  
18 but getting a change in there so that certificates are  
19 specific in citing in compliance to the NOP. After all,  
20 that is the purpose or one of the main purposes of the  
21 reg, so I just want to bring everybody's attention to  
22 that. It's out there; there are certificates floating  
23 around and it leads me to my next point, is we all want  
24 a level playing field, whether it's for dairy farmers or  
25 certifiers, we need a level playing field for everyone

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1 and it's going to take time to get there.

2 We need -- it takes time to get a consistent  
3 interpretation of the regulation by all certifiers and I  
4 think we all -- and I'm sorry that Andrea isn't here  
5 because maybe some of my comments are directed to her  
6 committee, but it really takes a lot of work to get that  
7 team together and to get that consistent. Two ways we  
8 can do it is by more publications of decisions or of  
9 leanings that are being made by either the NOSB or the  
10 NOP on a web site; on-site visits to all accredited  
11 certification agents are important. I don't have time  
12 to comment on the Scope Documents, but I think you're  
13 all on the right track. I was very pleased with the  
14 comments this morning, so I'll pass on that.

15 The last irritant I have is something -- I  
16 mean, we argued about everything in the Organic  
17 Standards industry back in the '70s, '80s, '90s, but we  
18 never argued about the fact that you could use an  
19 organic in a conventional ingredient, the same  
20 ingredient in a product. I think OTA brought it up  
21 before. That's -- we didn't even argue about that.  
22 That was a slam dunk and we argued about everything, so  
23 I'd really like to see a correction to the current  
24 interpretation that there's a legal basis to allow an  
25 organic and a conventional ingredient in a made-with

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1 product, because once the industry, you know -- and I do  
2 use the word industry -- starts hearing that --

3 MS. DIETZ: Time.

4 MR. SMILEY: -- you're going to start seeing  
5 those products and I think we've got to nip that one in  
6 the bud.

7 CHAIRPERSON KING: Questions? Jim.

8 MR. RIDDLE: Yeah, it's more of a comment,  
9 Joe. Thanks for your comments and I just wanted to let  
10 you know that back in 2003 the Certification  
11 Accreditation Compliance Committee did draft a  
12 recommendation and the first item there would be to  
13 require all certificates issued by accredited certifying  
14 agents verifying compliance with the NOP contained the  
15 phrase "Certified as compliant with USDA's National  
16 Organic Program" and you, as an accredited certifier,  
17 must verify that all ingredients being used by the  
18 operations you certify are indeed certified to this  
19 regulation, not some other regulation, but you're right,  
20 the rule does not require that in the section about  
21 information about on certificates and we were encouraged  
22 to kind of drop this issue. I'm hearing that it remains  
23 a concern and maybe the committee should take it back  
24 up.

25 MR. SMILEY: Absolutely. You have to. It's

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1       happening. I mean, there's a lot of ingredients  
2       floating around that are certified by accredited  
3       certifiers, but aren't necessarily certified to the reg  
4       and there's no legal language, as I understand it, that  
5       forces them to put that on the certificate. So we don't  
6       know. So we have to do a lot of extra work and I'm just  
7       presuming all of my colleagues and competitors are doing  
8       the same amount of work. And that's a tough assumption  
9       to make some days.

10               CHAIRPERSON KING: George.

11               MR. SIEMON: You're the second one that's  
12       brought up this double ingredients. I'm sorry, I'm out  
13       of the loop. Is there --

14               MR. SMILEY: Let me be real clear, I --

15               MR. SIEMON: Is there some directive or  
16       something, something I'm not aware of?

17               MR. SMILEY: Dick can give you the numbers.  
18       Basically, there can be a legal interpretation that in  
19       the made-with label, you can have an organic and a  
20       conventional same ingredient in a made-with label  
21       because of the regulatory writing. Dick, you'll have to  
22       back me up on this.

23               MR. SIEMON: Is that now something that the  
24       ACAs are interpreting or is that something the NOP  
25       stated or made an opinion on?

1                   MR. SMILEY: An ACA interpreted it and allowed  
2 the product to come out; we just said oh, they made a  
3 mistake, this ain't going to happen and apparently, it  
4 can. I would really -- if you don't -- Dick can --

5                   MR. SIEMON: No, no. That's enough.

6                   MR. SMILEY: Okay. Anyhow, right now -- let  
7 me be clear. This is not the NOP's fault, the NOP --

8                   UNIDENTIFIED SPEAKER: I'm starting to run my  
9 meter.

10                  MR. SMILEY: Yeah. This is not -- this is a  
11 -- it's a case that a legal opinion can be made; that  
12 can be allowed. And from what I understand and if the  
13 NOP wants to make a comment, I would love to hear it,  
14 but from what I can understand, it wasn't the intention  
15 of the rule; nobody intended that. But because of the  
16 nature of the regulatory writing in that section, it's  
17 defensible. Reprehensible, but defensible.

18                  CHAIRPERSON KING: Thank you very much, Joe.  
19 Lynn, you're up and Joe Mendelson is on deck.

20                  MS. COODY: Hi, my name is Lynn Coody. It's  
21 spelled C-O-O-D-Y and I am Principle Consultant of  
22 Organic Ag Systems Consultants located in Eugene,  
23 Oregon. My business focuses on providing accreditation  
24 to domestic -- assistance to domestic and international  
25 certification agencies in meeting the requirements of

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1 the NOP and ISO Guide 65. That means I work with  
2 accreditation requirements of ISO and NOP on a daily  
3 basis. I'm also the chair of the OTA Accreditation  
4 Sub-Committee and I am very thankful to present my ideas  
5 to you today.

6 I'd like to talk about three topics today,  
7 which I'm going to list right now just in case I don't  
8 get to them all. The first one is the role of ANSI  
9 evaluation of the NOP's accreditation program; the  
10 second is site audits of NOP-accredited certifiers and  
11 the ability of NOP accreditation program to meet the  
12 requirements of ISO Guide 61. But before I start, and  
13 this is why I might not get into my whole testimony, I'd  
14 like to say how pleased I am to have Mark Bradley as  
15 part of the NOP as the accreditation manager. Those who  
16 attended the trainings that Mark conducted on ISO Guide  
17 65 a few years ago know that Mark has a depth of  
18 knowledge about accreditation and is quite sincere in  
19 his interest in the organic field and I should know  
20 because I attended three of those trainings, myself.

21 So I'd like to get now to my first topic about  
22 the ANSI evaluation. I'm sure we're all happy to hear  
23 that the report is -- will be out soon in, hopefully in  
24 -- sometime in November and I certainly look forward to  
25 seeing that. I am also happy to hear that the

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1 Department is intending to implement a regular internal  
2 auditing program similar to the one just conducted by  
3 ANSI, but I'd like to remind you of another related  
4 responsibility for oversight which wasn't mentioned  
5 today and that is the role of the famous PIER Review  
6 Panel, which is referenced in the rule.

7           Yesterday I attended a meeting of the National  
8 Campaign for Sustainable Ag and presented a model that  
9 shows the different interactions about oversight of the  
10 accreditation program, which I'd be happy to share with  
11 the NOSB Accreditation Committee and I hope you'll tell  
12 Andrea, since she's not here. I also want to briefly  
13 mention the site audits of NOP-accredited certifiers  
14 have not been done as promised.

15           Last -- at the last NOSB meeting they said  
16 they would start them last summer and to my knowledge,  
17 none of them have been done for the foreign certifiers,  
18 which I feel creates an uneven playing field between  
19 foreign and domestic certifiers. And finally, just  
20 briefly, I'd like to emphasize the importance of the  
21 NOP's accreditation program with meeting the  
22 internationally accepted requirements of ISO Guide 61  
23 and I will --

24           MS. DIETZ: Time.

25           MS. COODY: -- stop right there. I always

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1 have a lot to say about ISO Guide 61, so if you want to  
2 know more, you can ask me. Thanks a lot.

3 CHAIRPERSON KING: Thank you very much, Lynn.  
4 Joe, you're up and Emily Brown-Rosen is on deck.

5 MR. MENDELSON: Thanks. My name is  
6 Joe Mendelson. I'm the Legal Director of the Center for  
7 Food Safety. I do want to note that I have a proxy from  
8 Liana Hoodes of the National Campaign for Sustainable  
9 Agriculture. First, I'd like to thank both the Board  
10 and the Program for all their hard work. We know it's a  
11 lot that you have on your plate and we do appreciate it  
12 and appreciate the spirit of this meeting.

13 First, I'd like to do my Tom Hutchison  
14 imitation. We support the NOSB's paper on organic  
15 livestock; we support the paper on fishmeal; we support  
16 the paper on Inerts. I'd like to lend my support for  
17 comments in a proposal made the Wild Farm Alliance  
18 concerning amending the model organic farm plan to  
19 consider bio-diversity and I also would like to note my  
20 appreciation to Rose for the paper on revamping the  
21 materials list. I think that would be helpful and it  
22 certainly would be helpful to those of us in the  
23 consumer and I guess, nontechnical material field in, I  
24 think, understanding the list in classifying it that  
25 way.

1           More specifically, consumers expect and need  
2           clarity, I think, on when the term "organic" is used in  
3           a principle display panel and unfortunately, I think in  
4           the discussion of the Scope paper, we really didn't get  
5           that clarity today and unfortunately, we didn't really  
6           have time to hear from the Program about what they --  
7           how they view that issue. It was certainly a part of  
8           the directives and I think needs clarity and I hope at  
9           least we can revisit that later in the meeting. I think  
10          it's important to consider, though, in the Scope issue  
11          that there's a split in the authority or the scope of  
12          authority to set standards and the scope of authority to  
13          enforce. And by that I mean the scope to set standards  
14          in the Act clearly goes to agricultural products. And  
15          so, you know, follow that there's also -- I think I have  
16          six minutes, so Kim, so I have a --

17                 MS. DIETZ: I didn't hear you say proxy.

18                 MR. MENDELSON: Proxy. There is authority to  
19          enforce the term "organic", I'd say not the seal on  
20          agricultural products. The misuse of label goes to the  
21          term "organic", not the use of the seal. But if you  
22          play that out, you have specific standards that we might  
23          need on agricultural product that are not yet in place.  
24          It's been identified. Fish, for example; it's certainly  
25          our feeling that at that situation those standards

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1 haven't been set, that a label "organic" or the term  
2 "organic" should not be used on that product. That's a  
3 misuse of the term "organic" and there's clearly  
4 authority to enforce the misuse of that term "organic."  
5 Pulling the seal off isn't enough. The 65-19A goes to  
6 the term "organic." Consumers look to the term  
7 "organic" more than the seal, unfortunately. I think  
8 that needs to be clarified.

9           If you then go to nonagricultural products, I  
10 think it's clear that the Act does not provide the  
11 Department authority to set standards. So there may be  
12 some nonagricultural products like cosmetics standards  
13 are not -- the authority's not under the Act. They may  
14 have to go to other places like FDA. But if you look at  
15 enforcement as far as the term, use of the term  
16 "organic", the Act says you get -- the Department can  
17 enforce use of the term "organic" on a product, not an  
18 agricultural product, a product. It's a much broader  
19 term.

20           So the question becomes then, what is the  
21 scope or what -- how far does the USDA want to take its  
22 enforcement discretion in enforcing the use of the term  
23 "organic" on a label? I think that's a question that  
24 clearly needs to be addressed. I think one thing, it  
25 goes to resources on how far the Department wants to

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1 extend that enforcement discretion. I think there also  
2 might be some proxies on other ways to enforce that  
3 enforcement -- you could look to the FTC, which enforces  
4 all sorts of label claims. They've done it on "ozone-  
5 friendly" and things like that. They could certainly do  
6 it on organic, on nonagricultural products that are  
7 organic.

8 I should add quickly that you'll hear from my  
9 colleague at Consumers Union, that both Consumers Union  
10 and Center for Food Safety have a joint position; a  
11 recommendation or thought we'd like to put forward on  
12 some of the cosmetic and personal body care products.  
13 Real quickly, I would like to get to the Sunset  
14 document. The law 65-17E requires full review  
15 consistent with the provisions of that statute. That  
16 includes looking at health and environmental issues  
17 incompatibility issues. Unfortunately, the document  
18 that's presented says we need to look at this general  
19 concept of sunsets. Well, the real question is what is  
20 the sunset within a concept of the Organic Food  
21 Production Act? It's not generally how we look at  
22 sunsets and it's not -- that doesn't give us some type  
23 of justification on how other sunsets kind of truncate  
24 the review of the statute specific.

25 Sunset review in -- under the OFPA means you  
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1 have to look at materials consistent with 65-17 and that  
2 means you don't just look at whether it's continued use,  
3 you look at it's health and environmental and organic  
4 compatibility. The list was designed to be -- in our --  
5 consumer's mind, I think, diminishing, not entitlement  
6 to stay status quo by just looking at continued use. I  
7 also think you can't put a paper out there saying we're  
8 only going to look at continued use and not  
9 compatibility when the Board just put forward  
10 recommendations on what organic compatibility means out  
11 there.

12 Certainly, materials that have been reviewed  
13 in the past haven't necessarily been looked at that  
14 compatibility standard, so you know, I think it's  
15 unfortunate. I realize there's a serious burden of  
16 work, but the law says what it does. I think you'd be  
17 short-changing consumers' expectations about diminishing  
18 materials, about creating a list that diminishes  
19 materials, not create entitlements and I would ask that  
20 that document be revisited. Thanks.

21 CHAIRPERSON KING: Questions? Thank you, Joe.  
22 Wait, Rose has a question. Joe, Rose has a question.  
23 Sorry.

24 MS. KOENIG: On that -- back to the Sunset,  
25 because that is a document that's up there being

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1 considered for a policy or vote. Can you elaborate a  
2 little bit more in terms of your -- you are a lawyer,  
3 correct?

4 MR. MENDELSON: I try not to admit that.

5 MS. KOENIG: But -- because you didn't state  
6 that. But your legal interpretation of that -- because  
7 we -- our original document, our original proposal had a  
8 much more thorough review process. It was quite  
9 different, although the final document was a kind of  
10 bringing together of some aspects, but some of the  
11 points that you raised were in fact raised by the  
12 committee as we were trying to bring these two documents  
13 together. So if you could elaborate on that concept,  
14 especially the first part, that review of Sunset was  
15 something that the NOP had constructed or argued --

16 MR. MENDELSON: Well, I --

17 MS. KOENIG: -- you know, from a legal point  
18 of view and unfortunately, we're not lawyers, so --

19 MR. MENDELSON: Yeah, I just -- in reading  
20 over the document, there's this general discussion about  
21 what a sunset is and it sort of mishes-mashes statutes  
22 that may sunset, in general, the whole statute or the  
23 authority under the statute versus what the OFPA says  
24 specifically. The sunset only goes to the materials, so  
25 it's really, I think, disingenuous to look at other laws

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1 and other sunset provisions to give some type of gloss  
2 on how we can interpret Sunset provisions, generally. I  
3 mean, the sunset provision in the OFPA has to  
4 specifically be interpreted to be consistent with 6517.

5 I mean, that's what it says. And if you'll  
6 look at 6517 -- I'm sorry, I don't have the subsection,  
7 I mean, it's -- you know, the three characteristics. So  
8 you know, I don't think you can look at statutes that  
9 have sunset provisions that don't related to organic and  
10 somehow say well, that allows us to eliminate two of the  
11 three criteria that we needed -- that, you know, that  
12 the OFPA says we've got to look at. I mean, that just  
13 -- that's just not -- is that clear?

14 MS. KOENIG: Yes, it is. And I had one more  
15 question. Taking advantage of some legal opinion. The  
16 one other question I had is that we -- and again, this  
17 may be more of a program area, so I'm just posing it to  
18 you and it's not to disrespect the NOP position on it,  
19 so I want to be clear on that. But we, as a committee,  
20 had questioned whether if we started the process, if we  
21 put through the Federal Register a notice that these  
22 materials were going to be up for sunset and if we went  
23 through kind of due diligence to complete the work,  
24 however, we didn't finish the work. We were -- and I  
25 don't want to quote because I'm not sure, but it was my

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1 impression, I guess, that if we didn't finish the job  
2 then the whole list would be nullified, that we were  
3 kind of creating a train wreck for the industry and you  
4 know, is that your understanding of how the Federal  
5 Register process works?

6 MR. MENDELSON: Well, I think that the  
7 question really is whether it's a five-year time frame,  
8 the question is when that five years hits, does it  
9 affect everything on the list and all the materials?  
10 That's a tough question. I think, as I remember the  
11 statute, it goes to materials, so if you have completed  
12 them for specific materials, I think those materials  
13 would have been met and then there would be other  
14 materials that if you didn't get the job done in five  
15 years, then those would fall off. I think there's  
16 separability [ph] there in that sense. I would say  
17 that's my interpretation and if you really want to rely  
18 on that, you might want to have your own lawyer to be  
19 under retainer to --

20 MS. KOENIG: Thanks. Thank you.

21 UNIDENTIFIED SPEAKER: You got what you paid  
22 for.

23 CHAIRPERSON KING: Yeah. Thank you, Joe.  
24 Emily's up and Brian Baker is on deck.

25 MS. BROWN-ROSEN: Good afternoon. I'm

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1 Emily Brown-Rosen and I am now with the Organic Research  
2 Associates. I had to think about that. I was going to  
3 comment also on the sunset process. Joe just made a lot  
4 of my points, so I won't belabor that too much other  
5 than I do have some specific surgical fixes, just a few  
6 words could be changed in that document and I think it  
7 would help protect the ability of the Board to review  
8 products and protect, you know, the material standards  
9 from certain problems that might come along and I think  
10 that is your duty when -- under the sunset, is to review  
11 the list according to OFPA.

12 So his main point is that 6517 has three  
13 overarching criteria; substances should not be harmful  
14 to human health and the environment; the substance is  
15 consistent with organic farming and handling and there  
16 is an absence of wholly natural substitute products. So  
17 those are three criteria that it takes with other  
18 sub-criteria for you to review a product or a material  
19 to get it on the National List. So when you take it  
20 off, any of those three criteria, failing to meet that  
21 is a reason to take it off. The way the document is  
22 worded, there's an "and" there that a petitioner would  
23 have to prove that all three of those things didn't  
24 apply, there should be an "or." And there's several  
25 places in the document where it says that, so if someone

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1       came in with compelling evidence that a substance had,  
2       say it was suddenly found to be carcinogenic, endocrine  
3       disrupter, that would be a good reason to re-look at it,  
4       maybe do another TAP review. So I'll give you those in  
5       writing so you can look at that when you work on the  
6       document.

7               My other comments are about some -- the draft  
8       proposal that the Materials chair has put forth on  
9       talking about the concept of the National List  
10      categories and how to review, you know, this whole  
11      concept of what is an active ingredient or is NOSB  
12      limited to only putting items on the list that are in  
13      those active ingredient categories mentioned in OFPA.  
14      And I'm really glad you're working on this. I think  
15      it's really important because we have different  
16      interpretations right now on the structure of the list  
17      as has been proposed by NOSB and what NOP has been  
18      saying in a few different instances.

19             So historically, we -- we've always considered  
20      that all synthetic ingredients need to be on the  
21      National List when used in production and there's -- in  
22      the case of some of these incidental ingredients, we've  
23      facilitated this by having certain categories on the  
24      list like aquatic plant products, liquid fish products  
25      which when -- as a category have synthetics in them and

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1 got put on the list as a synthetic. If this is no  
2 longer the understanding of how this can be, then this  
3 other option that Rose has proposed outlining a new  
4 definition or a new category of production aid and  
5 separately listing some of these incidental ingredients  
6 that may be permitted. And I think -- I would prefer  
7 the old way, but if the new way is the only way to do  
8 it, I have a definition here that I've worked on on  
9 production aid and I'd be happy to share it with you.  
10 If someone wants --

11 CHAIRPERSON KING: Could you please --

12 MS. BROWN-ROSEN: -- to ask me a question.

13 CHAIRPERSON KING: Yeah, you're time's up.  
14 Could you please share that with us?

15 MS. BROWN-ROSEN: Okay. So based on what the  
16 OFPA language is I would propose production aid includes  
17 netting, tree wraps and seals, insect traps, sticky  
18 barriers, roll covers and other equipment used in crop  
19 and livestock production. It also includes substances  
20 such as equipment cleanser, carriers, stabilizers,  
21 agivants [ph], extractants [ph], excipients and solvents  
22 that are necessary for formulation of fertilizers, soil  
23 amendments, livestock feed and livestock medications. I  
24 think that kind of covers all the bases, but you know,  
25 we certainly could talk more about it. Thanks. Any

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1 more questions?

2 CHAIRPERSON KING: Kim.

3 MS. DIETZ: Just a comment, Emily, because  
4 when we get to that discussion I just want to make sure  
5 that we have a definition in the NOP for processing aid  
6 and that we don't confuse the two because they are very  
7 separate.

8 MS. BROWN-ROSEN: No, no. In the --

9 MS. DIETZ: And so --

10 MS. BROWN-ROSEN: Oh, sorry. Go ahead.

11 MS. DIETZ: Yeah, so I just want to make sure  
12 that we look at that and that's why I bring it up now.  
13 It's been on my list, but it could be confusing;  
14 production aid, processing aid.

15 MS. BROWN-ROSEN: Right. Well, it's just in  
16 a different section. It's under Crop and Livestock and  
17 there's this next criteria is if used in handling, it  
18 must be blah, blah, blah. So there -- it's two distinct  
19 areas there. So I think you can differentiate based on  
20 that, so --

21 CHAIRPERSON KING: And are you going to  
22 forward that little statement to us in writing?

23 MS. BROWN-ROSEN: Yeah.

24 CHAIRPERSON KING: Okay. Thanks.

25 MS. BROWN-ROSEN: I'll get my extra copy.

1                   CHAIRPERSON KING: Brian Baker and  
2 Michael Sligh is on deck.

3                   MR. BAKER: Brian Baker, Organic Materials  
4 Review Institute out of respect for the request for the  
5 chair, I cede my time and respectfully request the  
6 opportunity to speak to you on Thursday. Thank you.

7                   CHAIRPERSON KING: Thank you very much.  
8 Mr. Michael Sligh.

9                   MR. SLIGH: Good afternoon. I am  
10 Michael Sligh with the Rural Advancement Foundation  
11 International based in Pittsboro, North Carolina. I  
12 rise to applaud the NOSB and the NOP for this  
13 demonstration of a new spirit of cooperation. We're  
14 looking for this to be a blossoming of a more trustful  
15 and generous atmosphere. I think one way that maybe you  
16 can build on this new spirit is to while here at this  
17 meeting, to mutually agree on some clear deadlines that  
18 you can hold each other accountable to.

19                   For instance, the concurrence of the  
20 Department is some key confusion that was generated by  
21 the April statements would be very important to ensure  
22 that that gets up on the web site and goes out to  
23 certifiers as soon as possible and that you mutually  
24 hold each other to these kinds of deadlines. Similarly,  
25 the meeting that I attended in June with the Secretary

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1 and the Department, this -- procedures for cooperation  
2 and collaboration between the Department and the NOSB,  
3 this too needs a deadline for that to be resolved. This  
4 would be a very useful contribution to future Boards and  
5 would avoid a lot of future machination, I believe. So  
6 I urge you to lock in those deadlines while here  
7 together at this meeting. I think that will be a good  
8 team-building exercise. I certainly support the  
9 comments of Lynn and Joe that have already come forward.

10 I was looking to hear something about the  
11 criteria of the TAP review contracts that spoke to the  
12 qualifications for demonstrative expertise in  
13 sustainable and organic agriculture and production and  
14 processing. I think that the scientific criteria is  
15 important, but I've seen a gap in some of the previous  
16 TAP contracts because of their lack of understanding of  
17 this particular approach to agriculture, so I just urge  
18 the -- it may be there, but I didn't hear it.

19 The issue of the sunset, I want to stress that  
20 the founding Board made many of our decisions about the  
21 materials based on the promise that future Boards would  
22 indeed meet the OFPA requirement of the re-review in  
23 meeting the legal sunset. So we urge you to keep that  
24 promise and to understand that we also voted those  
25 materials with specific annotations and we would not

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1 have voted those materials and in many cases the votes  
2 were very tight. And so it was in our view that the  
3 annotations and the requirement of the sunset were part  
4 of the deal maker of how we got to here and it's your  
5 role to keep that deal going forward, so thank you much.

6 CHAIRPERSON KING: Questions for Michael?  
7 Rose.

8 MS. KOENIG: From the historical perspective  
9 on that sunset issue -- just to enlighten me, I guess,  
10 so when you envisioned a review was it as extensive of a  
11 TAP review as -- well, let's not go to the original ones  
12 because I know some of those -- that was not an  
13 extensive review --

14 MR. SLIGH: Well --

15 MS. KOENIG: -- so I guess what I want to do  
16 is speak to the ones that your Board, you know, the  
17 first Board put in and then perhaps speak to the ones  
18 that we're now looking at that we have contractors that  
19 have been assigned that have provided us with more  
20 information. I mean, do you expect the same kind of  
21 review of all or you know, what kind of ideas can you  
22 provide?

23 MR. SLIGH: Well, I think the OFPA was clear  
24 and that you should just go to the OFPA guidelines and  
25 follow that. It also has to be consistent. The bar for

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1 putting material onto the list can't be lower than the  
2 bar for taking it off the list. There has to be  
3 consistency across that. You can't make it a higher  
4 burden to take it off than it was to put it on there.  
5 It needs to be consistent in both a positive and  
6 negative perspective and that the OFPA -- that language  
7 of sunset was very deliberate and it was a deal maker in  
8 the passage of the legislation and it was there to  
9 provide this accountability, part of the public/private  
10 partnership.

11 CHAIRPERSON KING: Dave.

12 MR. CARTER: Yeah, Michael. Emily just laid  
13 out three kind of criteria on the sunset. What's your  
14 thoughts on those specific ones as --

15 MR. SLIGH: They seem sound to me.

16 MR. CARTER: Okay.

17 MS. KOENIG: One other question. Because  
18 again, this is an area of kind of confusion where we get  
19 kind of advice from a lot of different individuals as we  
20 try to go forth and make these policies and again, the  
21 original policy that the Board came up with was quite  
22 different from the one that's on the web currently.

23 MR. SLIGH: Yes, it is.

24 MS. KOENIG: Speaking to the idea in  
25 rulemaking, I guess, that Barbara explained, you know, I

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1 just don't know where that -- you know, again, not  
2 having that legal expertise -- I think the idea, again,  
3 as she stated earlier with once something's there, the  
4 burden of proof to getting it off is higher, so that  
5 idea of an equal bar, although it might've been the  
6 intention, did you actually research that when you --  
7 you know, I guess I'm having a hard time grasping with  
8 what ideas that were out there and I think the concepts  
9 and we all understand those, but now that we're in this  
10 idea of what we have to do to satisfy the legal entities  
11 within USDA, sometimes what we want and we have are two  
12 different things, so that's just the situation.

13 MR. SLIGH: Well, if that's a question, I  
14 think that -- I think the idea was that we weren't  
15 creating a spiraling list of materials that would send  
16 agriculture toward this product substitution, that  
17 organic was not about just finding additional more and  
18 more materials to meet an endless need, but that it was  
19 based on the principles of organic agriculture and that  
20 if new science comes forward or new information on a  
21 positive light about something that we omitted, then  
22 that's an opportunity during that comprehensive review  
23 to reconsider. But it's also an opportunity if new  
24 light comes to the fact that hey, you know, we really  
25 don't need this anymore based on those criteria or other

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1 sound reasons to take it off. We were counting on that  
2 as the check at the end of the day. That's the stop,  
3 that's the backstop. And if we lose the backstop, then  
4 we're concerned that we're into a spiral where there's  
5 not a conclusion.

6 MS. KOENIG: But I guess -- and I agree and I  
7 think that the policy -- now, maybe there's -- maybe  
8 you're speaking more to the issue of there may be an  
9 undue burden on the person who wants to take that off  
10 and that's a very different issue because I think the  
11 policy does state that, you know, new information would  
12 have to be there, so I don't think there's a difference  
13 in that, that it's not arbitrary.

14 Are you speaking to the concept that perhaps  
15 there's not enough time for individuals to do that,  
16 perhaps the Board doesn't have enough authority to  
17 extend time or to do more technical review, you know,  
18 what specifically are you talking about because within  
19 that policy that is a criteria for taking, you know, for  
20 considering not renewing something, so I don't think  
21 that there's a difference of opinions. Now, I also have  
22 reservations in that policy as far as is it too large of  
23 a burden, is it not enough time given for that because  
24 we have a certain, you know, deadline and I think that  
25 that's a different issue, so maybe if you could think

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1 about that a little bit more and we can talk.

2 MR. SLIGH: Yeah, I'd be glad to think about  
3 it and give you some more careful advice. Thank you.

4 CHAIRPERSON KING: Kim, I think, had a quick  
5 comment and they we're going to -- or --

6 MS. DIETZ: Dave's light's on.

7 CHAIRPERSON KING: Oh.

8 MS. DIETZ: Michael, we've been talking about  
9 this, the quality of TAPS from the original 1995  
10 recommendations to now and they are very, very  
11 different. I also know that we have -- we've had a  
12 sunset provision on the table for almost two meetings  
13 now and we're still without anything in the Federal  
14 Register and we have to do something, so I would  
15 encourage everybody to, you know, if you have public  
16 comments on those documents, do them fairly quickly. I  
17 don't know if they've been posted already. I believe  
18 they have. But we have to make some decisions pretty  
19 quick for the Register, it's got to go out because we  
20 have to start reviewing materials or -- I'm off the  
21 Board, but this Board does have to start reviewing  
22 materials, otherwise --

23 MR. SLIGH: We're more than anxious to help  
24 you meet your deadline and we want to do everything to  
25 avoid a possible crash at the end of the deadline.

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1 That's not our intent.

2 CHAIRPERSON KING: Thank you. Next up is  
3 John Cleary, on deck is Susan Ulery.

4 MR. CLEARY: Hi, folks. My name is  
5 John Cleary from Vermont Organic Farmers and  
6 NOFA-Vermont. We are an accredited certifier  
7 representing 350 certified operations and about a  
8 thousand consumer members. I'm also here as a board  
9 member of the Accredited Certifiers Association/National  
10 Association of USDA Accredited Certifiers. The  
11 Accredited Certifiers Association really looks forward  
12 to working in a positive way with the NOP and the NOSB  
13 in the future. Thanks for the hard work that all of you  
14 all do. I'm going to hit a number of points and try to  
15 be quick about it.

16 The first one regarding the framework for  
17 collaboration between the NOSB and the NOP that was  
18 discussed this morning, I hadn't seen any -- you know,  
19 the information that you all have shared between each  
20 other about some of these feedback loops -- so maybe  
21 some of this was covered in that, but I'll give you real  
22 quickly some suggestions from my point of view as a  
23 certifier. Number one, when a certifier or producer  
24 asks the NOP for clarification or interpretation of a  
25 standard, it's my recommendation that before the NOP

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1 provides an answer to that, that number one, they check  
2 to see if there is an NOSB recommendation on that topic.

3 If there is an NOSB recommendation on that  
4 topic, then I would recommend that the NOP either defer  
5 to the recommendation or if the NOP disagrees with it,  
6 to publicly let certifiers and the NOSB know that they  
7 disagree with that so that topic could come back to the  
8 Board for re-review and that certifiers would know what  
9 to use for guidance. So before answers are sent from  
10 the NOP back to a certifier or an individual operation  
11 at that, feedback to previous NOSB recommendations is  
12 done.

13 And if there is not an NOSB recommendation on  
14 that interpretation and topic, I would suggest that the  
15 NOP bring that issue to the NOSB prior to providing an  
16 answer if it is an interpretation issue that's going to  
17 be setting a precedent for the future. And basically,  
18 certifiers need to know what is the status of these  
19 recommendations.

20 Really quickly, also I was informed a while  
21 back that the livestock docket may -- was possibly going  
22 to include an NOSB recommendation that would allow all  
23 excipients in health care products for livestock.  
24 That's something we strongly support; I know the NOSB's  
25 recommended it. I don't know if that is included in the

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1 livestock docket that the NOP said is in the process,  
2 but it would be great if we could have an answer on  
3 that. The last thing is I don't know if people in the  
4 room are aware that the pasture issue has sort of reared  
5 its ugly head once again and it appears that there are  
6 farms that are now being certified who are not providing  
7 pasture for lactating cows and I know the NOSB has  
8 provided some guidance on that in the past --

9 MS. DIETZ: Time.

10 MR. CLEARY: Okay. If I could just say, I  
11 don't if the NOP has -- there's rumors that there's been  
12 some clarification to a certifier that the NOP can't  
13 strictly enforce the pasture requirement. I don't know  
14 if that's true or not, if there are any comments about  
15 that. Thank you.

16 CHAIRPERSON KING: Rick.

17 MR. MATHEWS: That comment is not true.

18 MR. CLEARY: Great. I'm glad to hear that.  
19 Thank you.

20 MR. MATHEWS: The pasture requirements are as  
21 published.

22 CHAIRPERSON KING: Jim.

23 MR. RIDDLE: Yeah, and John brought up another  
24 good question and that is about the status of our  
25 recommendation on the excipients, is that included in

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1       that docket?

2                   MR. MATHEWS:  It's in the docket.

3                   MR. RIDDLE:  Okay.  Thanks.

4                   MR. CLEARY:  Could I just pass out one thing  
5       from the Northeast Dairy Producers Alliance regarding  
6       strengthening the pasture standard to you all?

7                   CHAIRPERSON KING:  Thank you.  Susan Ulery and  
8       on deck is Urvashi.

9                   MS. ULERY:  Good evening and thanks for giving  
10       us a chance to hang in here for the light in the day.  
11       My name is Susan Ulery.  I am the Director of Regulatory  
12       Affairs for the Synergy Company, which is a dietary  
13       supplement manufacturer, the outcast child now.

14                   UNIDENTIFIED SPEAKER:  Could you spell your  
15       name?

16                   MS. ULERY:  U-L-E-R-Y.  And I'm here today,  
17       however, speaking on behalf of OFPA because we're also  
18       members of the American Herbal Products Association and  
19       my topic is, I said on form Scope, but in sitting here  
20       I've been thinking well, maybe I should've said my topic  
21       is for prevarication.  No, that sounds like John Kerry.  
22       Maybe I should say the topic is flip-flopping, but that  
23       makes me sound like I'm using a branded Republican term,  
24       so I wouldn't go there.  The problem for us is the use  
25       of organic labels; it appears to be completely up in the

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1 air for our industry. We've made tremendous commitments  
2 in the supplement and herbal industry to the organic  
3 program.

4 We support some four billion dollars worth of  
5 herb sales go through the dietary supplement industry  
6 that dietary supplements are maybe 18 to 20 billion.  
7 Did I say -- it's four billion for herbs. Of those,  
8 there are some 200 herb farms that are certified organic  
9 right now who are members of OFPA and nobody, I think,  
10 ever explained to us that dietary supplements weren't  
11 considered food because under FDA regulations they most  
12 certainly are. I refer you to 21 CFR, section 321(ff)  
13 and so when -- I was talking with Mr. Mathews during the  
14 break and I said I'm suffering from this illogical  
15 condition here.

16 We think we're food; we know we're food  
17 because FDA regulates us as food. We have to comply  
18 with all food labeling unless Dushay [ph] creates an  
19 exception for supplements. So how come you all are  
20 trying to throw us out? And his logic -- and I'm  
21 presuming this came from legal staff that, you know --  
22 consulted is that well, the dietary supplement industry  
23 wasn't specifically consulted when OFPA regs were  
24 adopted, therefore you can't be regulated. And I think  
25 we all thought we were consulted. We've thought all

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1 along we were part of the plan and so it's very  
2 distressing to be thinking that we have to throw out all  
3 our labels again.

4 You know, we threw them all out when NOP came  
5 on line and we wanted NOP compliant labels and we got  
6 ourselves certified and oh, those are gone; now maybe  
7 we'll have a private standard. But then you have Joe  
8 Mendelson saying absolutely not. You cannot use the  
9 word, the term "organic." We want to support organic  
10 farming and organic products for consumers and we need a  
11 way to do that. We need your help. This is really sad.  
12 Thank you. Do you have any questions? I gave a handout  
13 which I hope all of you got.

14 CHAIRPERSON KING: Dave.

15 MR. CARTER: Yeah. Just a question. In terms  
16 of dietary supplements, though, in regard to structure  
17 or function claims, I mean --

18 MS. ULERY: Right.

19 MR. CARTER: You know, that does bring you,  
20 then, under FDA --

21 MS. ULERY: We're under FDA to begin with and  
22 so is food. For instance, the processed food can make  
23 certain nutritional claims like a health food claim like  
24 Omega 3 or some cholesterol-related heart healthy type  
25 of claim. You know, you can even see that on breakfast

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1 cereals, et cetera. And dietary supplements have a  
2 corollary, which is the structure function claim and  
3 those are -- both are regulated by FDA. So we see no  
4 reason to distinguish ourselves in using an organic  
5 label. If we can qualify and meet all the requirements,  
6 we're there. We're already there and we want to stay  
7 there. We don't -- we understand that -- my certifier's  
8 rep is here and they think this is a great marketing  
9 opportunity for a new organic label, but we kind of like  
10 the one we have.

11 CHAIRPERSON KING: Jim. Jim has a question,  
12 also.

13 MR. RIDDLE: Yeah, well you've taken a look at  
14 the Scope policy, obviously, and that --

15 MS. ULERY: Many times.

16 MR. RIDDLE: -- particular section -- yes.  
17 And I would be most interested in, you know, surgical  
18 corrections to our draft, you know, that if you can  
19 provide us specific language that would meet your goals  
20 but still be consistent with the rest of the draft;  
21 maybe we made a mistake by lumping the cosmetics and you  
22 know, dietary supplements. So there's one to pull apart  
23 right there and then let's deal --

24 MS. ULERY: That's what that letter that we  
25 just handed out summarizes.

1                   MR. RIDDLE: Yeah, but I don't see the  
2 revision language proposed and that's what I'm asking --

3                   MS. ULERY: Okay.

4                   MR. RIDDLE: -- not right now, but for you to  
5 work on and provide to us.

6                   MS. ULERY: Basically, we don't think a  
7 revision is needed because we're there. We're food. I  
8 think that's the -- really the basic strain that  
9 underlies our thinking and it has all along. We are  
10 food under the CFRs. And then there are additional  
11 provisions we have to meet as supplements. But we  
12 figure if we meet the food requirements of FDA and of  
13 NOP, we're labeling correctly and we're in the game.  
14 But I'd be happy to dialog about that. If you guys  
15 think you need more from us, we would really like the  
16 opportunity to present it, so we'll be in touch. Thank  
17 you.

18                   CHAIRPERSON KING: Urvashi, you're up and  
19 Marty Mesh on deck.

20                   MR. ENGLE: Mark, I will give my three minutes  
21 to Urvashi. David Engle.

22                   CHAIRPERSON KING: Oh, thank you.

23                   MS. RANGAN: Thank you. My name's  
24 Urvashi Rangan. I'm an environmental health scientist  
25 with Consumers Union, we're the nonprofit publisher of

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1 Consumer Reports magazine. Good afternoon and thank you  
2 all very much. Consumers Union would like to thank the  
3 Board for all of your hard work on getting your inputs  
4 on these directives together. Really, for the most  
5 part, we agree with all of them. We have a few comments  
6 to make on them.

7 We'd like to thank the National Organic  
8 Program staff for their careful consideration of those  
9 inputs and for reconsidering those directives that were  
10 issued that really shouldn't have been issued in the  
11 first place and while we're relieved, we don't want  
12 these issues to be quietly revisited again. Part of the  
13 confusion that happened over the summer was a lack of  
14 getting our questions answered, which we found  
15 particularly frustrating, as well reviewing minutes from  
16 meetings where it wasn't clear whether these directives  
17 were in practice or not and that is why we were staying  
18 on top of this and so while we are relieved, we don't want  
19 additional clarification posted on your web site and  
20 I'll get into that a little bit more in a minute.

21 I have a question about the antibiotic input  
22 that you gave today on livestock and it's unclear to me,  
23 Barbara, when you said that you concurred whether you  
24 concurred that all of the recommendations need to be  
25 proposed or whether indeed antibiotics right now cannot

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1 be used on the dairy farm. I'd like some clarification  
2 to that question and whether it's all of that  
3 recommendation that's going to need to go under proposed  
4 rule or half of it for the replacement conversion  
5 factor. I'm unclear on that.

6 As I mentioned before, I do think  
7 clarifications do need to be made. This summer we found  
8 an erroneous posting on the NOP site which was not dated  
9 which had clarifications to the clarifications of the  
10 clarifications and it was very confusing for us, it's  
11 confusing for consumers, it's confusing for farmers. We  
12 need things that are posted on that site to be dated and  
13 we would like all of your answers to the NOSB input  
14 today to be posted on that web site. We would also like  
15 our questions that we asked you in our letter this  
16 summer to be posted in the Q&A and we would like answers  
17 to those questions so that we can have closure to all of  
18 this and so that consumers and farmers and certifiers  
19 alike are all on the same page.

20 On to some of the recommendations. Just -- we  
21 have additional concerns about fish and fishmeal which  
22 are addressed as in part in the fishmeal recommendation.  
23 We think it's very good that synthetics used in fishmeal  
24 are now going to be required to be reviewed and put on  
25 the National List, but we do have concerns about

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1       contamination issues in fishmeal, whether it's used as a  
2       supplement or whether it's sold as fish, there are still  
3       PCB and mercury contamination issues, as well as  
4       environmental impact of over-fishing that need to be  
5       addressed and while we appreciate that there's been a  
6       lot of progress made on the fishmeal recommendation,  
7       Consumers Union certainly thinks that it needs to go a  
8       step further and deal with those contamination and  
9       environmental issues.

10               I'd like to also reiterate what Joe Mendelson  
11       said about labeling. This program does have statutory  
12       authority over labeling on food and it's -- the lines  
13       have become blurred between personal care products and  
14       pet food and fish and pet food is food and fish is food  
15       and those things should not be carrying any organic  
16       claim until the standards are made that they can  
17       follow. When consumers see those claims on those  
18       products, they assume that the same standards are being  
19       followed for food. So please, we requestfully [ph] urge  
20       you to actually prohibit the use of the organic term on  
21       those food products until standards are made.

22               As far as the nonfood products, I want to make  
23       a comment on dietary supplements. For the record,  
24       Consumers Union actually has a big problem with the  
25       organic label on dietary supplements. We recently

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1 published an article -- and I'm going to get a copy and  
2 bring it in tomorrow for all of you -- on a lot of  
3 safety problems with dietary supplements. We do not  
4 think that FDA is doing an effective job monitoring the  
5 safety of dietary supplements.

6 We do not actually agree with the law changes  
7 that equated dietary supplements with food and so to say  
8 that a dietary supplement is organic or nonorganic isn't  
9 necessarily offering consumers any additional value and  
10 consumers shouldn't assume that those supplements are  
11 any more safe.

12 Finally, on personal care products, we've got  
13 a huge product category out there carrying the organic  
14 label and we need to fix it now because consumers are  
15 buying these products and paying more money for some  
16 products which may be truthful and some products which  
17 may not be. Agricultural ingredients are used in  
18 personal care products. If you have a Shea butter and  
19 that's all you have in it, you have presumably a hundred  
20 percent organic product if you've grown it in accordance  
21 with the NOP standards.

22 So it shouldn't be rocket science to figure  
23 out that that can follow the labeling tiers. We need  
24 personal care product labeling to come in line with food  
25 labeling and if it's less than 70 percent organic you

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1 just shouldn't be able to use the organic claim on the  
2 front of a package. Twenty percent organic in personal  
3 care products shouldn't be allowed. It's not allowed in  
4 food. Thank you.

5 CHAIRPERSON KING: Questions? Rose.

6 MS. KOENIG: The -- as far as the going back  
7 to the fish, I think you should consider petitioning --  
8 if there's -- the problem with -- it's -- you know, if  
9 it's considered a natural, which the committee stated,  
10 they believe it's a natural, if there are contaminants  
11 in that natural, the only way that we can regulate it is  
12 be petitioning it to be a prohibited natural. Now, that  
13 could be annotated in the sense that if it is a  
14 prohibited natural, those that contain a certain amount  
15 of residues would be the ones that would be -- so it  
16 could be annotated prohibited natural, but that's the  
17 way to get about those things and it's the only way.

18 MS. RANGAN: Thanks, Rose. And we will work  
19 on that. Thank you.

20 CHAIRPERSON KING: Yeah, Barbara.

21 MS. ROBINSON: Let me just -- Urvashi, you  
22 asked about the antibiotics and the materials versus the  
23 origin of livestock. The origin of livestock change is  
24 a rulemaking change. We will issue a statement that  
25 says that all prohibited materials can't be used in

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1 livestock; that includes specifically antibiotics,  
2 unless the materials have been petitioned and approved  
3 by the Board and they have been published on the  
4 National List.

5 MS. RANGAN: Thank you, Barbara.

6 MS. ROBINSON: And Rose is quite correct.  
7 Petition fishmeal to be a prohibited natural if you  
8 don't want it on the list or if you want it on the list  
9 in that way. And as far as statements about who should  
10 get the standards and who should not, we have actually  
11 dialogued with OTA and suggested to OTA that for  
12 products for which USDA does not cover the labeling,  
13 that OTA can work with the industry to develop  
14 standards, be the keeper of those standards, develop a  
15 logo and then, of course, there's a considerable  
16 consumer outreach that would have to be done.

17 It would be very parallel to what USDA went  
18 through with the Board to develop the National Organic  
19 Standards that might address some of these issues and  
20 give consumers that comfort level, that those products  
21 that we don't regulate, that want to communicate some  
22 standard of performance to organic practices, there is a  
23 -- you know, there is a recognized set of standards that  
24 are published, they're accessible and they are, you  
25 know, agreed upon by the industry.

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1 MS. RANGAN: Barbara, I appreciate those  
2 comments, but I guess having the OTA take the lead on  
3 that seems in conflict with having an independent label  
4 program and there's other stakeholders who are involved,  
5 including consumers and others who just aren't members  
6 of the OTA and were not part of that process.

7 The Federal Trade Commission does exist to  
8 deal with truthful and misleading claims and one thing I  
9 didn't get to, but we strongly agree with Joe Mendelson  
10 and the Center for Food Safety is that perhaps the FTC  
11 needs to be brought in in this case to investigate the  
12 truthful and nonmisleading use of a non-USDA organic  
13 claim because it may be that the FTC doesn't find that  
14 to be at all useful. They don't find those unfriendly.  
15 They've prohibited that claim, they've prohibited  
16 "green," they've prohibited "environmentally friendly"  
17 because there just aren't standards and it is confusing  
18 and misleading to consumers and I think the FTC needs to  
19 be brought in to --

20 MS. ROBINSON: Well, we'll check on that,  
21 Urvashi, because I think for truthful labeling when it  
22 relates to these types of products, it might actually be  
23 FDA that administers that part of the truthful labeling.  
24 I think there may actually be a joint, shared authority  
25 for truthful labeling between those agencies.

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1                   MS. RANGAN: There is a shared, but it -- the  
2                   FTC has published guidance on green claims and organic  
3                   could easily be included in that for a non-USDA organic  
4                   claim. Thank you.

5                   CHAIRPERSON KING: Thank you. Next up,  
6                   Marty Mesh; on deck is Bob Buresh.

7                   MR. MESH: I have a proxy. So my name's  
8                   Marty Mesh, the executive director of Florida Organic  
9                   Growers and a certification program, Quality  
10                  Certification Services, a board member of the OTA,  
11                  although as always, these are my personal comments and  
12                  should not be reflected upon the OTA. Concerning  
13                  earlier comments, I have been called a troublemaker by  
14                  the staff of the National Organic Program and while some  
15                  may have thought it was a personal attack, I prefer to  
16                  reserve judgment since at that time it may have been  
17                  accurate, but however, since I've cut my hair and beard  
18                  I just am here to say to thank you for all your hard  
19                  work, for the change in the tone of the meeting and I  
20                  appreciate it.

21                  However, since I do have a few extra minutes,  
22                  I will address a few -- couple of things. If USDA is  
23                  successful in moving audits to biannual basis, we would  
24                  be interested, as well, in moving our ISO audits to the  
25                  same type of schedule. I understand that on-site audits

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1 for foreign certifiers are not being done and have not  
2 been done. I made the same comments at the last meeting  
3 talking about an un-level standard or playing field for  
4 certifiers and I would urge that to be rectified, either  
5 outsource accreditation audits to -- of foreign  
6 certifiers or get them done. I requested cost share  
7 information from the National Organic Program and  
8 received totals but not the breakdown of the data that  
9 we really need to further along.

10 I urge a resolution to the dairy materials  
11 that came up earlier to suggest to move materials to a  
12 more expensive and more toxic materials instead of a  
13 material that has been petitioned and reviewed with a  
14 positive outcome. It's just totally unacceptable to me.  
15 I seem to remember FDA was here at a meeting saying that  
16 organic is your program and really talking to the Board  
17 at that time, addressing the Board, that organic is your  
18 program and FDA has no interest in -- when it was asked  
19 about materials, so it seems to me as though there's got  
20 to be a way to figure it out.

21 We -- Quality Certification Services have  
22 petitioned the Department for -- to engage in formal  
23 rulemaking on behalf certified organic shrimp producers  
24 and I somewhat disagree with my colleagues, Joe and  
25 Urvashi, and I'm sure they misspoke, is the problem.

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1                   Shrimp that is currently produced in  
2                   accordance with the National Organic Program regulation  
3                   and was done so with a great investment and commitment  
4                   on the part of producers now competing in the market  
5                   with shrimp that is not produced and not produced even  
6                   using certified organic feed, a great market  
7                   disadvantage for those organic shrimp producers that  
8                   really pioneered the way and I believe the just  
9                   resolution at this point is to bar product on the shelf  
10                  that doesn't meet the National Organic Program  
11                  regulation. The Department even through the directive  
12                  that is now withdrawn, so there's still confusion, gave  
13                  18 months to use up the labels.

14                  Rosie's comments that "unfortunately, we're  
15                  not lawyers", don't ever apologize for not being a  
16                  lawyer is a -- I echo the earlier comments from the  
17                  dairy producer about the most important thing is  
18                  maintaining consumer confidence. I, as an organic  
19                  farmer, you know, starting in 1976 and just, you know, I  
20                  don't actively farm anymore, but again, the maintaining  
21                  of consumer confidence is really the backbone of this  
22                  whole program and if we lose it, it's really down the  
23                  drain for organic producers. And with that I'd like it  
24                  noted in the record that I finished early and --

25                  MS. DIETZ: Three minutes.

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1 MR. MESH: -- maybe it's the new look or  
2 something that caused me to do that. Thank you.

3 CHAIRPERSON KING: I think Dave has a comment  
4 or question or --

5 MR. CARTER: Marty, I couldn't help notice  
6 when you're walking away, is there a bulge in the back  
7 of your jacket?

8 CHAIRPERSON KING: Next up is Bob Buresh and  
9 Bob, I believe you have a proxy, so you're in for six  
10 minutes and on deck is Leslie Zook [ph].

11 MR. BURESH: Yes, I'm going to be speaking on  
12 my behalf and then on Jackie Jacob, who is the other  
13 co-chair of the task force. Thank you, Mr. Chairman,  
14 NOSB and NOP staff. I'm Bob Buresh, Director of Poultry  
15 Nutrition for Tyson Foods, Nature's Farm and I'm  
16 co-chair of the Organic Trade Association's Methionine  
17 Alternatives Task Force. The following are comments  
18 presented on behalf of the task force only and not the  
19 OTA, since the Livestock Committee has not met to  
20 sanction our report yet.

21 Supplemental methionine was added to the  
22 National List for use in October, until October of 2005.  
23 No one is more aware of that deadline than we are. When  
24 that sunset was implemented, it was understood that  
25 there was a lot of work to be done to either find

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1 suitable alternatives in time or to present an airtight  
2 case for continued allowance. At the same time as the  
3 sunset, we are being affected by our own success. With  
4 the advent of the National Standards, the organic meat  
5 sector is blossoming while the organic egg consumption,  
6 with exponential growth, is best described as screaming.  
7 As a result, the organic feed supply is struggling to  
8 keep up with demand and is expected to remain fairly  
9 tight for the next year, in the least.

10 As much as I'd love to stand here and tell you  
11 that the organic broiler, egg and turkey industries will  
12 be prepared to do without synthetic methionine in  
13 October, I or we, as a task force, at this time, are not  
14 that optimistic. With a year remaining, it looks like  
15 the U.S. organic poultry producers are not yet able to  
16 eliminate supplemental methionine. To do so, without  
17 sufficient alternatives, would rock us to our  
18 foundation. I expect that we will be discussing another  
19 temporary extension or an experimental use allowance for  
20 nonorganic feedstuff, subject to commercial  
21 availability.

22 The intent of this group is not to prove that  
23 our industry cannot survive without supplemental  
24 methionine. My goal today is to convince you that we're  
25 taking this work seriously and we will supply you with

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1 the information necessary to reassess the position of  
2 the supplemental methionine on the National List. At  
3 the same time, I hope to stimulate discussion that will  
4 focus on exactly what you expect and when you expect it  
5 in order to make a decision.

6 I call your attention to the report I handed  
7 out dated October 9. The report does not lay out our  
8 progress so far as such that the information would be  
9 insufficient to make good decisions. What it hopefully  
10 does is articulate our work plan sufficiently to put  
11 methionine on the agenda again at the next NOSB meeting.  
12 We've delegated the responsibilities among the best  
13 qualified members of the task force with the intent of  
14 providing a supplemental information petition, authored  
15 by the respective researchers and submitted to the NOSB  
16 in time for discussion and decision at your next  
17 meeting.

18 The good news is that we have an able group of  
19 people dedicated to finding a way to comply with the  
20 standards. We have done some testing and research and  
21 we're trying to do much more. It's taken us a while to  
22 get off the ground, longer than we anticipated and  
23 certainly longer than we're comfortable with and -- but  
24 we are making progress. You've heard already from  
25 Ann Fanatico on the studies at the University of

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1 Arkansas. Dr. Joe Moritz, who we hoped was going to be  
2 here, has some ongoing studies with pastured poultry at  
3 West Virginia. The University of Minnesota is scheduled  
4 to study the methionine content of natural forages next  
5 spring under the direction of task force co-chair,  
6 Dr. Jackie Jacob.

7 The European community has, to varying  
8 degrees, eliminated synthetic methionine from organic  
9 poultry production. Part of our research is to discover  
10 the successes and challenges that they have encountered.  
11 And while it's understood that cost and price are not  
12 the deciding factors in the allowance of a synthetic  
13 substance, they are factors to be weighed. We will  
14 analyze our findings and report on their impact on  
15 producers and the consumers.

16 I would like to end my comments with the  
17 challenge that if we, the task force, deliver to you,  
18 the Board, sufficient information next April to  
19 reconsider the status of synthetic methionine, can the  
20 NOP consider and the NOP deliver any changes before the  
21 October sunset? Hopefully, this question is rhetorical  
22 and the answer is yes, in which case I encourage you to  
23 advise and guide us today. If the answer is no, we need  
24 to dramatically redirect our efforts to manage the  
25 consequences. I thank you for your time and

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1 consideration and if there's any questions, myself or  
2 hopefully anyone from the task force here present might  
3 be able to help me.

4 CHAIRPERSON KING: Well, it sounds like you  
5 have a strategy in place and I guess my question is, I  
6 mean, is what he's asking, I think, is it realistic to  
7 consider that over the course of the next year if we  
8 find -- in other words, if there are no alternatives,  
9 that methionine would not come off the list,  
10 potentially, in October of 2005.

11 MR. MATHEWS: The challenge will be getting  
12 through both the proposed rule and a final rule in the  
13 time required. If it goes through as a single item,  
14 possible, but I'm not going to guarantee it.

15 CHAIRPERSON KING: Kim.

16 MS. DIETZ: I guess I would -- we've heard a  
17 lot of comments and I know this probably one material  
18 that has a huge impact and is a big concern. So I would  
19 ask the Livestock Committee, I guess, to put on your  
20 work plan and to really come up with some kind of  
21 recommendation or to work on this task force. Somehow  
22 the Livestock Committee should take this back, I would  
23 think, and at least keep abreast of what's going on and  
24 what our alternatives are, if we have any at all.

25 MR. MATHEWS: I would second what Kim has said

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1 because you need to start working on it now if you're  
2 going to be doing it.

3 MR. BURESH: And one of the challenges we saw,  
4 like Ann said, I mean she might have started her funding  
5 request for research years ago and it's now just coming  
6 to fruition and now we've got a four-year study and  
7 that's the same with the work at West Virginia and I  
8 think at Minnesota, as well. It's very slow in getting  
9 funding. We hoped we'd have had these answers by now,  
10 but it seems to be much slower in getting generated than  
11 what we'd even expected.

12 MS. DIETZ: And I know that when we discussed  
13 this material, one of the pitfalls of adding a sunset  
14 provision was, you know, we were hoping the industry  
15 would start going right then and there and they didn't  
16 and --

17 MR. BURESH: They didn't and yeah, it was --  
18 we --

19 MS. DIETZ: It's kind of like we're going to  
20 give you the hard-nose petition and material tactic,  
21 but --

22 MR. BURESH: Um-hum.

23 MS. DIETZ: -- I mean, we did what we could do  
24 and I think the Livestock Committee --

25 MR. BURESH: As an organized group, right, we  
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1 did not get started as quickly as we probably should  
2 have.

3 CHAIRPERSON KING: Jim and then Owusu and then  
4 Rose.

5 MR. RIDDLE: I pass. Kim --

6 CHAIRPERSON KING: Okay, so Owusu then Rose.

7 MR. BANDELE: Did I hear you say that the  
8 European community has eliminated methionine?

9 MR. BURESH: Yes.

10 MR. BANDELE: If so, could you say a little  
11 more about that?

12 MR. BURESH: Yeah, just quickly. I spent -- I  
13 just got back yesterday after two weeks over there and  
14 it's hard to real quickly say what they're doing in  
15 Europe because it seemed like each member country has a  
16 little different twist, but basically, they've taken the  
17 reverse approach. They banned synthetic methionine from  
18 the start, but in most of those countries they have a  
19 transition clause for nonorganic ingredients. Most of  
20 the countries right now have an 80 percent organic  
21 ingredient requirement. So they can feed other  
22 nonorganic ingredients that still meet the regulations.

23 They can't feed animal proteins and they can't  
24 feed all -- anything that would be against the organic  
25 regulations, but they can feed some vegetable protein,

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1       some high protein like the corn gluten meals and some of  
2       the ingredients on the list as long -- even if they're  
3       not strictly organic. So they're kind of in limbo  
4       between -- they've gone it from the back way. They said  
5       we'll ban it from the start, but in the meantime, we'll  
6       allow you nonorganic ingredients to help supply, not  
7       just methionine, but other requirements. It wasn't  
8       strictly for methionine's purpose.

9                But no, they have banned them and I assume in  
10       most countries or at least the ones in Western Europe, to  
11       the best of my information, yeah. But they do have --  
12       sorry. They do have a deadline of like sometime in fall  
13       of 2005 that they're supposed to go to a hundred percent  
14       organic and they're struggling with they don't think they  
15       can do that, either. And they're trying to figure out  
16       what to do at the same time.

17               CHAIRPERSON KING: I think Rose had a  
18       question, then Mike.

19               MS. KOENIG: I want to -- I mean, I want to  
20       commend those who have put forth the effort to do the  
21       research and to kind of do the analysis and that was one  
22       of the, you know, when we had the discussion, that was  
23       sort of what the advice was, start doing the research so  
24       that people don't get, you know, caught in the last  
25       hour, you know, without the material.

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1       some more solid answers.

2               MS. KOENIG: I don't know. I mean, that's  
3 something for those guys to really consider, but I don't  
4 see through the materials process how it could be  
5 expedited.

6               MR. MATHEWS: The research provisions do not  
7 provide for the use of prohibited substances. In fact,  
8 I think it's paragraph C that specifically says that you  
9 can't use a prohibited substance.  
10 So --

11              MS. KOENIG: But in the case, if the exemption  
12 was granted during a time when -- currently it is not a  
13 prohibited substance.

14              MR. MATHEWS: Well, right now it's not a  
15 prohibited substance.

16              MS. KOENIG: Right. So what I'm saying is is  
17 there, in any way, a way to use that exemption -- I  
18 mean, just think about it, that's all I'm saying.

19              MR. MATHEWS: As long as it's allowed, you can  
20 conduct research using it, but it's at the point that it  
21 becomes no longer allowed that you can't use it anymore.

22              MS. KOENIG: Well, then I --

23              MR. MATHEWS: And the material is slated to  
24 come off the list on October 21, 2005.

25              MS. KOENIG: I guess I never quite -- and

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1 that's what I said, you know, Tuesday I don't quite  
2 understand, then, what that research exemption is about,  
3 but that's just my nonexperience, I guess, in federal  
4 regulation.

5 CHAIRPERSON KING: Well, I think it's worthy  
6 of exploration and I just -- I want to recognize both  
7 Becky -- oh, Mike then Becky then George. and we have  
8 three individuals yet to comment and we're past 5:30, so  
9 just throw that out as recognition of time. But Mike,  
10 please go ahead.

11 MR. LACY: I'll just be very quick.  
12 Appreciate the Methionine Task Force, you know, fessing  
13 up that they maybe didn't work as quickly as they could,  
14 but I also need to fess up being part of a university  
15 that it takes forever to get research done. Ann  
16 mentioned that it's going to take her four years to get  
17 her project done at Arkansas. Even if she had started  
18 three years ago, we'd still be a year away from getting  
19 her information.

20 CHAIRPERSON KING: Becky and George.

21 MS. GOLDBERG: While we have someone here  
22 who's on the task force, I've been thinking about all  
23 these issues and as a Livestock Committee member, I  
24 thought it would be really useful to know what the range  
25 is of inclusion rates for these various methionine

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1 sources and diets. In other words, if we were to  
2 somehow encourage the use of nonorganic corn gluten or  
3 field peas or whatever as a substitute for methionine,  
4 you know, how much would be required? What's the range  
5 from substance to substance?

6 MR. BURESH: Well, that would -- it would  
7 really depend on the ingredient.

8 MS. GOLDBERG: Right.

9 MR. BURESH: I mean, limitations on fishmeal  
10 -- fishmeal, crabmeal, would be strictly due to the  
11 upper limits on -- so we don't get fishy tasting eggs  
12 and meat. I mean, you've only got a couple percent  
13 you're allowed or that you realistically can use before  
14 you start passing on the fishy flavor. Some of the  
15 proteins, corn gluten we can use fairly high levels of  
16 it. I mean, you could probably use 15, 20 percent of a  
17 diet.

18 MS. GOLDBERG: But how much at minimum would  
19 you need to supply sufficient --

20 MR. BURESH: Oh, that I can't -- I don't have  
21 that number in front of me. That's something we could  
22 get -- could come up with fairly quickly because these  
23 are known ingredients with known methionine -- or  
24 content. So that's just a --

25 MS. GOLDBERG: Do you have a sense of the

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1 range, obviously with the fishmeal it's at the low end.  
2 What's the top end?

3 MR. BURESH: As far as the high inclusion  
4 rate?

5 MS. GOLDBERG: Yeah.

6 MR. BURESH: You're probably looking at the  
7 things that we could probably include at higher  
8 inclusion rates and not have other incurring problems  
9 would be things like the corn gluten meal is something  
10 that's a standard, conventional ingredient that's used  
11 at fairly high levels already. A lot of these  
12 ingredients, sunflower meal, some of them have other  
13 high fiber, other detrimental effects when you feed  
14 them over several percent of the diet. So it would  
15 just -- we would just have to ingredient to ingredient  
16 and just -- we can come up with that fairly --

17 MR. SIEMON: I think what she's saying if  
18 we're allowed conventional feed, would we end up with a  
19 90 percent organic ration and 10 percent conventional if  
20 we're allowed these uses purely as methionine  
21 supplements? Additive, excuse me.

22 MR. BURESH: I think -- the visit -- when we  
23 were talking with some of the people in Europe and they  
24 were really concerned whether they could get to a  
25 hundred percent organic, as well. And we were visiting

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1 and we kind of came out with the idea of somewhere --  
2 but we think between -- and this is strictly my opinion,  
3 without any really sound research, is somewhere between  
4 90 and 95 percent of the requirement -- I mean, if we  
5 could get to -- we could probably go 90 to 95 percent  
6 organic and then we -- with just our corn and soy. We  
7 just can't get -- we still need something else in there.  
8 And so it's just not going to be there. The fishmeals  
9 -- I mean, we're not sure about those, but again, we can  
10 only use several percent of the fishmeals because of the  
11 flavor issue.

12 CHAIRPERSON KING: Okay. George, is there  
13 more?

14 MR. SIEMON: Yeah, I just want to respond to  
15 saying that there's been a lot of good progress.  
16 Really, there was quite a bit of progress, initially.  
17 There was all kind of unofficial trials that went on and  
18 they all failed. And people kind of got a little  
19 befuddled, you know, then there was visits to Europe  
20 where the saw lots of failures as well as successes, but  
21 you know, again, this conventional feed's a pretty big  
22 deal. And I think now the task force -- my  
23 understanding -- because there was quite a few trials,  
24 initially. It's now turned into we need official help,  
25 we need to really research this.

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1                   So I think there's -- to say there's not been  
2 progress, I know our company did quite a few trials.  
3 It's more so that this -- there wasn't any success and  
4 now we're saying let's look at it from a bigger  
5 perspective.

6                   MR. BURESH: Some of those initial trials were  
7 done by several of the companies and we just kind of  
8 said well, let's go out there and try to make some  
9 manipulations and it just doesn't work, but it's not  
10 scientific. The chicken -- you know, we had small pens,  
11 you know, we didn't have a lot of data and that kind of  
12 thing, but we just kind of put together some things, but  
13 it wasn't going to give us, you know, some good  
14 scientific answers.

15                  CHAIRPERSON KING: Well, thanks. We  
16 appreciate your input and --

17                  MR. BURESH: Okay. We'll keep you informed.

18                  CHAIRPERSON KING: Thank you. Thank you. We  
19 have three people left. Leslie Zook is next, Lisa Dawn  
20 White is on deck and then our last commenter today is  
21 Sebastian -- and I can't read the last name.

22                  MS. ZOOK: Mark, in the interest of time, I'll  
23 defer and Lisa Dawn White will also cede.

24                  CHAIRPERSON KING: All right. Thank you very  
25 much. That was easy. Sebastian, and I apologize. I

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1 can't --

2 MR. BELLE: I apologize for my poor  
3 penmanship. It's Belle.

4 CHAIRPERSON KING: Okay, I'm -- it's  
5 B-E-L-L --

6 MR. BELLE: E.

7 CHAIRPERSON KING: E.

8 MR. BELLE: I will make my comments brief. I  
9 have sat on a number of public committees like this and  
10 have gone through what you're going through. I commend  
11 you. I think you're very patient and conducting  
12 yourself very professionally and I don't envy you at  
13 all. I stand before you today as the Executive Director  
14 for the Maine Aquaculture Association. We represent  
15 both fin fish and shellfish growers. And I'm also a  
16 board member of a group called the Salmon of the  
17 Americas. And I'm also a member of the National Organic  
18 Aquaculture Work Group that referred to earlier today.  
19 And I would like to just make three brief comments.

20 One is we do support the development of  
21 national standards and I think this group deserves a  
22 great deal of credit for being willing to go back and  
23 deal with A word again. I know it was a rough tour on  
24 the first go-round and I'm hoping that it will be not  
25 quite as contentious on the second go-round, but it may

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1 be and if so, then you certainly deserve credit for it.  
2 I'd like to support the comments that Dr. Brister and  
3 George Lockwood and in particular make the point that  
4 there is a group out there which has been working on  
5 these issues for some time and I would hope that you  
6 take their work seriously and make -- I guess I'll make  
7 one comment on what my Irish colleague said earlier,  
8 which is -- I'm not sure that he understood the  
9 question.

10 One of you asked the question about would you  
11 delay the process and I think he didn't understand what  
12 was meant by that comment and I would ask him to correct  
13 me if I'm wrong, but I would view the process -- if  
14 there's pre-existing group out there which has already  
15 been working for a year, then the embracement of that  
16 group would seem to be me not a delay, but in fact, a  
17 way of accelerating the process and so I would hope that  
18 that would be viewed the same way by the Board.

19 If the Board determines that they are  
20 unwilling to allow that group to do work ahead of time  
21 and to be their kind of expert group as it were on the  
22 issues and they determine to form their own task force,  
23 then I would like to volunteer my group's services as a  
24 producer group to participate in that exercise and hope  
25 that we would be welcomed.

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1                   Finally, I would hope that any standards that  
2                   are produced for aquaculture, be they shellfish or  
3                   finfish, would be of the same high level of integrity  
4                   and linkage to good science that have occurred in other  
5                   organic standards that are being produced and if  
6                   aquaculture is singled out and held to a higher  
7                   standard, then I would hope sincerely that both the USDA  
8                   and the Organic Standards Board would be willing to go  
9                   back and revisit the standards in other producer groups  
10                  and ensure that there is consistency across those  
11                  groups. Thank you very much.

12                  CHAIRPERSON KING: Perfect timing. Jim. We  
13                  have a couple of comments.

14                  MR. RIDDLE: Just to -- yeah. Quick comment.  
15                  I'm the one who asked that question because I had  
16                  understood the -- Mr. Lockwood -- one of the options he  
17                  was laying out was for us to delay forming an NOSB task  
18                  force until the work of the NOAWG is completed and in no  
19                  way would I want to see us discard that work. I see the  
20                  work that's occurred thus far as a way to jumpstart this  
21                  public process. That's, you know, an industry-driven  
22                  group and I'm hearing conflicts about -- how open it is.

23                  I take, you know, the comments that it is open  
24                  to heart, but we're accountable to the public. We're a  
25                  USDA advisory board and we have to be open, so I see

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1 that concludes public input and our agenda for today.  
2 Thank you all very much for your patience and your  
3 input. We start tomorrow at 8:00 a.m.

4 \*\*\*

5 [End of proceedings]

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IN RE: National Organic Standards Board Meeting

HELD AT: Washington, D.C.

DATE: October 12, 2004

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Karen D. Martini, Transcriber  
York Stenographic Services, Inc.

Date:

\_\_\_\_\_  
Sarah Mowrer, Proofreader  
York Stenographic Services, Inc.

Date:

\_\_\_\_\_  
Brad Weirich, Reporter  
York Stenographic Services, Inc.